

The STORK MARKET:

America's Multi-Billion Dollar

Unregulated Adoption Industry

Mirah Riben



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Minor edits made to PDF May, 2020. All content is as written in 2007.

ISBN: 1-4276-0895-4

Library of Congress Control Number: 2006939682

Cover Design: Mirah Riben

Cover Art: Tony Caruso

*For Alicia,
who always has lived
and always will live
in my heart*

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*If one benefits tangibly from the exploitation of others who
are weak,
is one morally implicated in their predicament?
Or are basic rights of human existence confined to the
civilized societies
that are wealthy enough to afford them?
Our values are defined by what we will tolerate when it is
done to others.*

William Greider, former Treasury Secretary



Foreword

What is wrong with adoption in the United States? According to this new book by Mirah Riben—a great deal. Mirah has exposed the horror story that is adoption policy and practice in the United States in the 21st century. It requires a strong constitution to read this book as its contents are truly shocking. I have been appalled to read about how adoption in the United States at the present time is riddled with exploitation, deceit, and denial. Greed and consumerism masquerade as altruism, as parents and children are drawn into a quicksand of legal and illegal adoption. Mirah is to be congratulated for exposing the tragic outcomes for children, who are being failed by a government which allows this situation to exist and turns a blind eye. The appalling injustices that are taking place in the field of adoption in the United States have finally been exposed.

This book has highlighted for me the ways in which adoption policy and practice in the United States differ from the system which exists in Australia. It will also, I am sure, be an eye-opener not only for many Americans but for other readers around the world. There are many changes which would improve the situation in the United States, but what is needed more than anything is a major shift in attitude. Children should not be treated as a commodity to be exchanged arbitrarily. They have rights which must be protected by law. Because children are vulnerable, the policies which provide care and protection for them must be honest, ethical, and truly child-centred. If adoption exists, it should be about finding homes for children who are unable to live with their families, after all efforts have been made to keep the family together. Adoption is an extreme form of family disruption, as it involves not only physical but also legal separation from one's family of origin.

In Australia important changes have already taken place. Each state and territory in Australia has its own adoption legislation. However, they have all followed a similar pattern over the years.

In 1982 in Adelaide, South Australia, a conference was organised by the National Council for the Single Mother and Her Child. Many mothers who had lost children through adoption attended this conference and subsequently formed support organisations for themselves. As a result of pressure from adoption support groups, adopted people in Australia first gained access to their original birth certificates in the state of Victoria in 1984.

After this took place, adoption support groups in South Australia worked together to persuade the government to change adoption legislation there. With the passing of the *Adoption Act 1988*, South Australia became the first state in Australia to grant equal rights to access identifying information to adults who were adopted as children and to their mothers (and, in certain circumstances, other family members). It will be interesting to see which of the American states will be enlightened enough to be the first to introduce similar legislation. All other states and territories in Australia have since followed the example of South Australia, except Victoria, where the *Adoption Act 1984* is still in effect. With the passing of the *Adoption Act 1988* in South Australia, it was clear that the government acknowledged that mothers and children who had experienced adoption separation could benefit from having access to information about each other.

Steps were then taken to re-examine whether or not adoption was, in fact, an appropriate outcome for families in difficulties. With the passing of the *Children's Protection Act 1993*, the South Australian government made it clear that they were willing to put resources into family preservation and into creating alternative options for children at risk, which would be genuinely child-

centred. Since that time, much progress has been made in this area and numbers of adoptions in South Australia have reduced steadily.

In 1971 in the whole of Australia (the population at that time was close to twelve million), there were approximately ten thousand adoptions. The bulk of those were adoptions of locally-born children by non-relatives, i.e. people who were previously unknown to the child. Such adoptions are now known as ‘local adoptions.’ In 2005 (by which time the population had increased to almost twenty million) there were only sixty-five local adoptions in Australia.

In the state of South Australia (population approximately 1,500,000), there were almost one thousand local adoptions in 1971. By 1993, when the *Children’s Protection Act* was passed, this figure had dropped to only twenty-two. In 2005 only two Australian-born children were adopted in South Australia. Those two children were adopted only after all efforts to support their mothers to raise them had failed. It is likely that in the near future there will no longer be any adoptions of Australian-born children in South Australia. This trend is evident throughout the country.

Expectant mothers in Australia, regardless of their circumstances, are generally encouraged and supported to prepare for raising their children. After the birth, a Parenting Payment is available from the Federal Government to any parent who is a permanent resident of Australia and who has custody of their child, regardless of their gender or marital status. This payment, which is means-tested, has been available since 1973 and is a recognition by the Australian government that children are the basis of a country’s future. The government, therefore, makes financial support available to parents to assist them to provide for their children.

In the United States there are two ways in which a child can be transferred from one family to another through the legal process of adoption. Children who are

deemed to be unsafe living within their families may be removed under child protection legislation and may then be adopted without the consent of their parents. Tragically these children, who may have already suffered while living with their families, are being traumatised further by having their identity legally altered through adoption. Such fabrication produces a state of insecurity and confusion in children, as it replaces the reality of who they are with the fiction of who they must pretend to be. After adoption they are no longer legally related to their siblings, grandparents, and other family members with whom they may well have already formed close relationships. Sadly these important relationships are often severed after adoption. Children in Australia who are removed from their families under child protection legislation, on the other hand, are cared for under guardianship or permanent care orders. Unlike adoption, these are not based on deceit and fabrication and do not involve a permanent legal separation of a child from his or her family. The consent of parents (usually the mother and sometimes also the father) to adoption has always been necessary in South Australia.

Readers of this book will also learn that there are an alarming number of adoptions taking place in the United States with the consent of the parents (usually the mother). I am astounded that so many American women are apparently able to be persuaded that it is in the best interests of their children to be separated from their families and raised by strangers. This is in stark contrast to what is happening in other countries, such as Australia, where such adoptions are rare.

As Mirah points out so clearly, current unethical adoption policies and practices in the United States exist to service greedy, needy adults, when what are needed instead are ethical adoption policies and practices, which will serve the needs of vulnerable children.

Mirah has suggested that the United States could learn from adoption policies and practices in Australia,

where adoption is well-regulated. There are no commercially-based adoption agencies in Australia, private adoptions are illegal and all domestic adoptions are enacted by State Government departments. Legislation exists in all states and territories of Australia to ensure that vulnerable families are protected from exploitation. Such legislation is, of course, designed to address the best interests of children. In South Australia, for example, consent to adoption cannot be given until the child is at least fourteen days old, counselling after the birth is compulsory and it must be completed at least three days prior to consent being given. At that time, the mother of the child must also be given information in writing regarding the consequences of the adoption. After the consent has been signed, there is a minimum period of twenty-five days during which the consent may be revoked.

In Australia there is no contact of any kind between expectant mothers and prospective adopters. Such contacts are considered to be intrusive, disempowering to the expectant mother and potentially exploitative. They may also serve to encourage an inappropriate sense of 'ownership' in the prospective adopters. Sadly such contact has become common in the United States, in spite of the fact that it is considered by many professionals to be unethical. In South Australia, it is not until the revocation period has expired that the government department involved selects adopters for the child. Prospective adopters, therefore, do not have any contact at all with the child until that time.

In 21st-century Australia, adoption is almost a thing of the past. It is being replaced by truly child-centred alternatives. The Australian community has learned that identity and heritage are important and that we are all, in a sense, 'guardians' of our children until they reach adulthood. For children who are considered to be unsafe in their families of origin, there is the possibility of a court granting *permanent guardianship*. This provides

the security that the children involved will not be removed from the home in which they have been placed and also that their guardians will have the right to make all decisions on behalf of those children - just as they would if the children had been born to them. Because no adoption takes place, there is no new birth certificate and no attempt to destroy the child's original identity and replace it with a false one. This means that permanent guardianship is a more honest way to care for children in need than adoption.

Adoption legislation was enacted in the past in ignorance. At the time that numbers of adoptions were high, there was no reliable evidence available of the long term effects on both parents and their children of adoption separation. The legislation, which allowed these adoptions to take place, therefore, was necessarily experimental. It took many years for the long-term impact of adoption to be felt and even longer for those affected to feel comfortable speaking out. When this did occur in Australia, however, appropriate steps were taken to support family preservation and to create more child-centred outcomes for children who were unable to live safely with their families. Family preservation programmes, which encourage and assist parents to raise their children, are taking the place of adoption programmes, which create family breakdown.

Books such as this one have an important role to play in exposing to the world the horrific realities of current adoption policy and practice in the United States. It is the responsibility of government to protect its vulnerable citizens. It is clear that the United States government is failing to fulfil this responsibility. For the sake of the families who have already suffered as a result of adoption separation and in order to protect other families from enduring that pain, changes must be made. I have no doubt that eventually the final change will come about in the United States and that truly child-centred alternatives will be devised to replace adoption.

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This will ensure that safe, secure homes can be provided for children in need, without the deceit and pretence inherent in adoption.

This is an honest and well-researched book written with a genuine concern for the well-being of children. It will be welcomed by all who share such a concern and who wish to work towards a better future. As has been shown in Australia, those whose lives have already been affected by adoption separation, if they work together, can be a very powerful force for change.

Sadly much of the current trade in children in the United States is instigated and directed by women. As Joss Shawyer said in 1989: “***Women can and must stop putting in orders for other women’s children.***”

© Evelyn Robinson, MA, Dip Ed, BSW, 2006

Evelyn Robinson is a social worker, author, and presenter who has lived and worked in Australia since 1982. She is also a mother who was separated from her son by adoption in her homeland of Scotland in 1970. They were reunited in 1991 and continue to enjoy a close relationship. Since 1994 Evelyn has been speaking at conferences and presenting seminars on the topic of the long term outcomes of adoption separation. She has travelled widely since her first book, Adoption and Loss – The Hidden Grief, was published in 2000 and has met with professionals and members of the adoption community in many countries. Her second book, Adoption and Recovery – Solving the mystery of reunion, was published in 2004. Evelyn has been involved with post-adoption services since 1989 and has worked since 1999 in a professional capacity as a post-adoption counsellor with adults who have experienced adoption separation. Her work in the post-adoption field has been acknowledged internationally and earlier this year Evelyn was keynote speaker at a conference in Bucharest on The Rights of the Child, at the invitation of the Romanian

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government. Evelyn's experience and expertise have also been recognised locally and she has been invited by the new government-funded Post Adoption Support Service in South Australia to provide training for their counsellors.

Acknowledgments

There have been so many who have made this book possible. Not knowing in what order to thank everyone, I have done so, for the most part, alphabetically.

I am grateful for the support and encouragement I received to present this important material from Annette Baran, a pioneer in adoption reform.

Jon Klaren provided the invaluable and insightful perspective of a father who lost his battle to prevent the adoption of his son. Jon also graciously shared the exhaustive research he compiled on state laws regarding adoption facilitators.

I am grateful to Kelly Kiser-Mostrom for her ongoing efforts to stop corruption in adoption and for allowing me to share her story. Kelly is a reminder that unethical adoption practices hurt us all, and her determination to end corruption serves as motivation.

Elizabeth Samuels is a rare jewel whose legal mind clearly and objectively sees the failings in adoption practice and presents meaningful ways to improve them. Elizabeth's writing on the rush to obtain consents to adopt provides a lasting roadmap and invaluable tool for change.

I am indebted as well to Erik Smith: another father who graciously contributed his perspective and expertise. Erik's passion in advocating for fathers is exceeded only by his sharp legal mind and his Solomonic wisdom. He is a role model for all who are faced with a contested adoption.

I extend posthumous acknowledgment to Jean Paton for having the courage to be the first adopted person to

Acknowledgements

speak out against the injustice of being issued a falsified birth certificate. Jean is the mother of adoption reform who, like Rosa Parks, politely but very firmly refused to allow her equal rights and human dignity to be compromised, and in doing so started a revolution.

Posthumous thanks as well to Carole Anderson, Esq., MSW, birthmother and past president of Concerned United Birthparents, for her forward thinking. Carole is remembered as one of adoption's most important theoreticians and activists.

Most of all, I wish to express my heartfelt thanks to someone for whom the words "gratitude" and "acknowledgment" are insufficient: Evelyn Robinson's dedication and devotion to repairing adoption reached across the miles from Australia, generously lending her inspiration and insight.

Enormous thanks, praise, and a debt of gratitude to Micael Allen Potter.

Each of you was there for me to guide, assist, offer feedback, encouragement, support, and inspiration. All of you were there with me (some in spirit only) through this arduous labor of love and helped "birth" and nurture this book.

I take little credit. I was but a conduit for the facts presented herein to pass through.

Introduction



When I lost my son to adoption, I thought that my sadness and pain would last forever and that my life had been ruined. Looking back, I believe that I was separated from my son by adoption because I was uninformed and because I lacked the strength to resist those who pressured me.

This experience has led me to inform and strengthen myself and to inform and strengthen others....I can now say that I have used my pain and my suffering to heal myself and to help others to heal.

Evelyn Robinson, "Recognising the Gift of Pain," Concerned United Birthparents Retreat, 2003.



Adoption touches nearly everyone in one way or another. There are approximately 1.5 million adopted people in the United States for which there are approximately six million parents by adoption and birth. It is further estimated that more than sixty percent of Americans know someone who has been adopted, has adopted a child, or has relinquished a child for adoption. Forty percent of the population has considered adopting; fifty-eight percent know someone who is trying to or has considered adopting. When you add those who work in the field of adoption, there are few untouched by adoption...including stepparent and in-family adoptions.

All adoption—*intra-* or *inter-family*—is intended to provide homes for orphans and children who have no family able to care for them. “It is the need of a child to be placed and welcomed into a home that grants adoption its moral and legal status.” That it solves the needs or desires of adults is a “secondary effect[.] rather than the primary purpose of adoption.”¹

This book focuses on non-related adoption—the majority of which involve infants under two years of age—which has become big business serving the bottom line of those who profit from making such arrangements.

Unbelievably, **only Connecticut, Delaware, and Minnesota limit the placement of children to unrelated adoptive parents to licensed agencies.**² The remainder of all adoptions are delegated to private entrepreneurs creating an international “\$6.3 billion [a year] industry that is *unregulated*, with more than \$250 million wasted in the international adoption industry” [emphasis added], according to International Advocates for Children (IAC),³ a nonprofit, human rights watchdog for orphaned and abandoned children worldwide. In the U.S. alone, adoption is estimated to be a \$2–\$3 billion industry.

Some critics of domestic adoption in the U.S. describe it as mostly or “almost entirely” unregulated; unregulated to a great degree; “[s]urprisingly loosely regulated,” or, at best, self-regulated.⁴ In *Ethics in American Adoption*, L. Anne Babb states: “...there is no professional standard for or regulation of adoption practice.”⁵ The few regulations that do exist are, for the most

part, concerned more about fees such businesses are allowed to charge than about the safety and protection of the children whose custody they transfer.

A *Publishers Weekly* review of Adam Pertman's *Adoption Nation: How the Adoption Revolution is Transforming America* found that "Perhaps most harrowing is his discussion of the effect of 'laissez faire' capitalist thinking on adoption policy and the largely unregulated nature of the 'industry' that has sprung up around it."

Rabbi Michael Lerner says that we live in a culture "[s]urrounded by an ethos of selfishness generated by the old bottom line, people increasingly treat each other as vehicles to satisfy their personal needs.... [Other people] are viewed instrumentally as 'useful' or as 'human resources' for the sake of advancing societal goals....act[ing] upon this 'marketplace rationality' in which 'looking out for number one' seems the only rational way to live."⁶

The "marketplace rationality" is alive and well in adoption, which operates to serve the needs of those who pay to obtain children. And the rights of adult adoptees are still denied in the majority of states, based on a false promise of privacy made to mothers who surrendered⁷ their children to adoption.

I refuse to give up, however. We live in a nation that claims to put "children first." We need to live up to that ideal, beginning with the most vulnerable children who rely on the legal system to protect them. I will continue to address the dichotomy between policies that purport to be in children's best interest and the lack of regulations to support and protect all families.

This book will be of interest to those whose lives are touched professionally and/or personally by adoption, anyone who is considering adoption, and all who are concerned about families, children, and equal rights.

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Adoption is a very personally and emotionally charged issue for those touched by it. Few can think about or discuss it without passion. For that reason, this may be a difficult or painful book for some to read. It may make you sad, it may shock you, or it may make you angry. But it is for just these reasons you might need to read it.



*I am only one, but still I am one.
I cannot do everything, but still I can do something; and
because I cannot do everything,
I will not refuse to do something I can do.*

Edward Everett Hale



Chapter I: Past and Present



History cannot give us a program for the future, but it can give us a fuller understanding of ourselves, and of our common humanity, so that we can better face the future.

Robert Penn Warren



Throughout human history, people have not adopted except within kinship circles. This remains true today on a worldwide basis.

In American history, as well, relatives, friends, or neighbors informally took in and raised orphaned children. The common law was hostile to adoption based on the maxim that “only God can make an heir.” Waves of immigration caused a rise among urban working-class families and put pressure on institutions that housed children. In 1851 the first adoption laws in the United States appeared in Massachusetts.¹

The watershed event for adoption, as we know it today, was a program that became known as “Orphan Trains.” The trains were an attempt by Children’s Aid Society to rescue homeless children from the streets of New York.² Between 1887 and 1929, some 150,000 children found new homes in what was called “one of the largest social experiments in American history.”

In order to find homes for these children, a “market” was created. The children were taken by train through America. As the train went through each town, children were displayed like slaves at an auction, and offered to whomever would take them. Farmers were encouraged

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to take orphans as extra sets of hands. Their treatment has been compared to that of children in today's foster care system, some of whom are taken by families with more concern for subsidies than the welfare of the children. Some of the lucky Orphan Train children were treated more like family and less like unpaid help by those who took them in.

Others were less fortunate. Then, as now, some were abused. No one monitored the condition under which they were living, but the problem of so-called "street urchins" in New York had been solved.

In the late 19th and early 20th century it was assumed that unmarried pregnant women would keep their children. Yet there are always orphaned and abandoned children, or those whose parents cannot provide adequately for them. Thus, the need to "market" them continued and campaigns ensued to convince people that adoption was a wonderful way to add to their families or, for those who could not, to start a family.

In the 1920s and 1930s, this began to change. Barbara Melosh reports that at that time "social workers were emerging as a professional group—a group reluctant, at first, regarding adoption. They were actively searching for more 'homelike' alternatives to institutional care for children. But they didn't imagine that parents would be able to make children not born to them truly their own."

"During this period, adoption gradually became more acceptable to social workers. They also developed professional standards that gave them more confidence about placing children in adoptive homes."³

At the same time, behaviorist John Watson published his "clean slate" theories stating: "Give me a dozen healthy infants...and my own specified world to bring them up in and I'll guarantee to take any one at random and train him to become any type of specialist I might select—a doctor, lawyer, artist, merchant-chief, and yes, even beggarman or thief, regardless of his tal-

ents, penchants, tendencies, abilities, vocations, and race of ancestors.”⁴

Social workers, thus, began to see adoption as a solution for children born “out of wedlock.” The change in moral attitudes toward “illegitimacy,” coupled with a desire to encourage adoption, led to the practice of issuing “amended” birth certificates, listing the adoptive parents as the parents of birth. In New York State, original birth certificates and court records pertaining to adoption were sealed to all. Other states sealed the records only from the public.

After World War II, the two-parent family became idealized. However, at the same time, pregnancy rates outside of marriage increased for white middle-class women. Because this did not fit the ideal family model, single parenthood was pathologized. The social work community came to believe that adoption was the best solution for the “problem” of an unintended pregnancy. This was supported by the belief that the mother could—and indeed should—simply forget and go on with her life.

By 1960 despite the Children’s Bureau and other adoption experts’ recommendations to keep the records open, twenty-eight states closed birth certificates and sealed additional records to the parties of the adoption. Sealing the records erased the child’s past, helping to make children more adoptable, and also protected adoptive families from possible interference or harassment by surrendering parents.

Much has been written about U.S. adoption in the period between World War II and *Roe v Wade* in part because it is a period in which U.S. domestic adoptions peaked with 1.5 million mothers relinquishing babies for adoption between 1945 and 1973. The largest population cohort in this country came of age in the midst of the sexual revolution. There was no fear of HIV and no contraceptive pill, and it was a time when most women

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did not consider, or were incapable of, terminating an unexpected pregnancy.

The sexual revolution resulted in many white, middle-class pregnant women being shuffled off to maternity homes to keep secret the shame their condition might cast on their family. Single women were simply not allowed to keep and raise their babies. The steady flow of mothers with no alternatives created a steady supply of available babies. Books such as Rickie Solinger's *Wake Up Little Susie*⁵⁶ and more recently Ann Fessler's *The Girls Who Went Away*,⁷ are excellent historical resources and provide an understanding of the lifelong anguish that surrendering a child for adoption has on mothers who do so.

In the 1970s women's roles continued to be redefined and more single mothers kept their babies. School policies changed to allow students to remain in class during and after pregnancy. Parents became less ashamed and more tolerant of helping their daughters to raise the children they bore. Rates of teen sex and pregnancy began to slowly drop by 1991.⁸ Thus, the number of healthy white newborns being placed for adoption dropped as well. At the same time, women began delaying childbirth to pursue careers. Later in the decade, same-sex couples and financially independent single women entered the competition for babies to adopt, increasing the number of people vying for a dwindling number of babies being relinquished for adoption. The pendulum had swung from a buyers' market, with children needing homes, to a sellers' market with couples clamoring for infants to adopt.

As the supply of U.S.-born infants to adopt dried up, strategies changed from marketing children to marketing the idea of adoption to expectant mothers. Pregnant single women with less financial and emotional support were pressured to surrender their children to meet the growing demand for adoption.

History of Adoption Reform

In the 1940s, many social workers supported secrecy in adoption, depriving adopted persons access to their birth records. Other social workers and adoption experts began expressing the dangers of family secret keeping. Jean Paton, a social worker who was adopted, vehemently objected. Paton formed Orphan Voyage in 1953 and began a national grassroots movement for adoption reform. The following year, Paton's *Breaking Silence* called for the equality and self-determination of adopted citizens.

In 1971 Florence Fisher, adoptee and author of *The Search for Anna Fisher*, founded the Adoption Liberation Movement Association (ALMA) in New York. Between Orphan Voyage on the West Coast and ALMA on the East, a network of "search and support" groups began to appear in cities and towns across the United States.

Adoptees, parents who surrendered them, and adoptive parents—who came to be known collectively as the "adoption triad"—protested the secrecy of adoption and advocated for adoption records to be unsealed. With their limited resources, however, most groups focused on supporting members' losses through adoption and assisting with search and reunion. Searching for family members was aided by a loosely connected network of local groups who made referrals to private investigators and others who became experts in working with agencies and public records.

Emma May Vilardi formed the International Soundex Reunion Registry¹⁰ (ISSR) in 1975 to allow adoptees and their mothers to find and connect with one another. Despite the passing of its founder, this service still exists as the largest and only national, free adoption registry.¹¹ The concept of a registry, however, backfired on reformists when state legislators saw state-run regis-

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tries as a “compromise” between open records and those who benefited from keeping them sealed.

Registries are promoted as a non-intrusive method of helping to connect mothers and adult children when both are seeking such a connection. Senate bills to establish a national government-run registry have passed several times but have been stalled in the House of Representatives’ Ways and Means Committee (specifically, the subcommittee on Human Resources). A central registry would eliminate the problems faced by a mobile society and adoptions that often take place in states in which the mother has never established residence and in which the child was not born.

Adoption reform activists are critical, however, of both current state and proposed national registries. They point to governmental registries’ many and varied restrictions: court orders, vetoes, parental permission even for adults, mutual consent, mandatory intermediaries, and open records only for adoptees born in certain years. Some registries require as many as five signatures (both adoptive parents, both birthparents, and the adoptee). All of these restrictions to access one’s birth records apply only to adults who were adopted, giving them fewer rights than non-adopted citizens; unequal treatment based solely on birth status.¹²

Returning to the history of adoption reform, in 1976 Lee Campbell formed Concerned United Birthparents (CUB) in Massachusetts. CUB, (currently headquartered in California),¹³ was created to address the unique search and support needs of parents who surrendered children to adoption. Mothers dealt with their pregnancy and surrender alone and in secrecy. Many suffer what Merry Bloch Jones has called “birth mother syndrome,”¹⁴ including: unresolved grief, depression, post-traumatic stress disorder, and a higher rate of unexplained, secondary infertility (also reported by Deykin, Campbell, and

Patti).¹⁵ Fathers, too, often feel guilt and shame and a sense of helplessness.

Campbell, the first mother to publicly speak about having relinquished a child to adoption, did so knowing it might—and in fact did—negatively impact her husband's banking career. She courageously appeared on national television and, thus, early on CUB brought light to the plight of mothers who surrendered and let them know support was available. Her first of four appearances on the Phil Donahue Show in 1978 yielded ten thousand responses from parents and adoptees seeking to learn how they could be reunited.

In 1978 Campbell was invited to give input to the panel writing the Model State Adoption Act. It was her presence that led to the removal of the term biological mother from usage therein and later elsewhere.

In 1980 I was one of five mothers to co-found Origins,¹⁶ a New Jersey-based support group for mothers who surrendered children to adoption. Many parents in CUB and Origins sought to locate the children they surrendered and ensure their safety. With mothers joining adoptees in searching, adoption searches became increasingly controversial throughout the 1980s.

While there are laws protecting people from stalkers and harassment, it is not illegal to locate someone. As for those separated by adoption, it is no more legal to conduct a search for an adult as for a minor, although searches for minors are controversial even among adoptees and their mothers who advocate opening closed adoptions through search and reunion.

Adoptive parents' fears, however, of their children being found by searching mothers helped fuel several investigations into the network of searchers who were forced underground by closed adoption practices and laws that restrict access to adoptees' records.

One of the cofounders of Origins, Lucy Paré of New Jersey, helped others find their children. Paré was duped

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by a couple pretending to be searching for the child they placed for adoption. They arranged for her to be caught on camera by a news team while she was being reimbursed expenses. When asked by a reporter why she was doing what she was doing, she called it an act of civil disobedience. Her “capture” on camera was shown over and over on the news.

The hysteria over adoption searches led to a WNBC-TV three-part series “Adoption: Whose Child is it Anyway?” depicting “underground” searchers as child stalkers. The advertising for the series stated: “[A]doptive parents live in dread of the thought of opening the door one day and finding their child’s natural mother standing there.”¹⁷

During this time, the late 1980s, investigators were collecting information on many volunteers who helped reunite families separated by adoption. Sandra Musser was a reunited mother of a surrendered child, support group leader and author of *I Would Have Searched Forever*. In March of 1993, the federal government indicted Musser on charges of “conspiracy to defraud the government of confidential information.” In *To Prison With Love* Musser recounts the three-and-a-half year investigation that led to her indictment on thirty-nine felony counts, her trial, and four months in federal prison in 1993 and 1994.

While the press played on the fears of some adopters, other adoptive parents supported and joined adoptees and their mothers in the fight to open adoption records. Many supported, encouraged, or initiated reunions for their adopted children. In New Jersey, Adoptive Parents for Open Records (APFOR) was founded by Carol Gustavson in 1980.

Alyce Jenkins is one of the early APFOR members still active in adoption reform. Like many adoptive parents, Jenkins’ thoughts about her child’s mother began with concerns about health issues. Her daughter’s medical problems were “thought to be inherited from her

birth mother (so I constantly had to tell the MD's that she was adopted). We were desperate to help her—but she was in her mid-teens before we began to see any connection to adoption.”

Jenkins says “Carol [Gustavson] encouraged us to search and brought birthmothers to a meeting sometime in the spring of 1986. Was that a revelation! My husband tells time and again how moved he was by the birthmothers’ tears as they told about their losses, totally a surprise to us who thought we’d done a good favor for them by relieving them of their unwanted children. We had much to learn.

“At about the same time, we asked for non-identifying information from the agencies for both children as we’d been given nothing earlier.... By December I first contacted Beth’s birthmother. I know now that it would have been better for her to do the search and make the contact later, but I was protecting a minor from rejection. Beth visited Donna and her family in Cleveland for Christmas that year.”¹⁸

In the meantime, in 1977, ALMA took a more proactive stance on behalf of adoptee rights. While continuing to offer search and support for its members, ALMA broke with the practice of reformers who focused on the emotional damage of adoption separation or medical need for open adoption records, and instead called attention to the injustice of denying adoptees the same rights as those not adopted. *ALMA, et al. v. Lefkowitz, et al.*, a class action suit, challenged the constitutionality of the sealed adoption records law in New York.

In 1978 the American Adoption Congress (AAC)¹⁹ was formed as a volunteer, nonprofit organization bringing together, on a national level, the patchwork of local and regional search, support, and advocacy groups. In 1989 I helped the AAC organize the first march on Washington and “speak out” to raise public awareness

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of the problems caused by secrecy in adoption and the need to open adoption records for adult adoptees.

By the early 1990s, “open adoption” began to be practiced. At the same time, states were legislating for intermediaries, such as attorneys, to arrange private adoptions. Social workers and adoption experts favored the openness but not the privatization. Religiously based adoption agencies, such as Catholic Charities and the National Committee for Adoption (NCFA) raised strong objection to privately arranged adoptions.

While adoption reformers and the NCFA were on opposite sides of the open records debate, they were united in their opposition of private adoption. I sat with the President of the NCFA at the time, William (Bill) Pierce, on the same side of this issue on national television. All of our combined efforts were no match, however, for attorneys and others who lobbied in favor of privatizing adoption.

In the ensuing years, the NCFA changed its name, its president, and its policy toward private adoption. Now the National Council for Adoption²⁰ (NCA), in June 2005 they testified before the House Ways and Means Committee that: “There are private adoption agencies that, with training, could join in serving children in foster care, through adoption and foster placements, pre- and post-placement counseling, and other services.”²¹ In May 2006, Thomas Atwood, the president of the NCA, testified before a subcommittee of the House Ways and Means Committee: “The public system already turns to private agencies to assist with services such as home studies and post-adoption services. Through public-private partnerships, private adoption agencies can also assist the already stretched public system by recruiting and training parents, and matching children with families.”²²

With the NCFA changing its course on the issue of private adoption, and the introduction of the Inter-

net—which assists private adoption entrepreneurs and intermediaries—the industry proliferated. The Internet moved the commodification of children from newspaper ads to the global marketplace.

The Internet also helps adoptees and their original families find resources to reconnect. It provides chat rooms, email lists and other means of support for triad members. Ironically the vastness and ease of the Internet has splintered rather than united triad members. It has reduced membership in some organizations that support legislative change that would open adoption records because of the ability to search for oneself without the need to join a group for such assistance.

The Internet also brought together the founders of Bastard Nation (BN) an organization that demands “dignity and equal rights for adult adoptees.” With a solitary focus on adult adoptee rights, BN, founded in 1996, introduced and supported ballot measures and legislation that reversed restriction to access in Alabama, Kansas, New Hampshire, and Oregon. (Alaska opened its records in the 1980s, as had Puerto Rico and the U.S. Virgin Islands). As of this writing, adoptees who born in the other forty-six states are still denied the same rights as non-adopted citizens. No matter how old they are, adoptees are forbidden to obtain or view a copy of their own original birth certificate or any other uncensored original record pertaining to their birth or adoption.

BN continues to focus on open records legislation. CUB continues to offer support for mothers, fathers, adoptees, and adoptive parents via its local branches, newsletter, annual retreats, and email list. CUB also supports open records legislation, as does the AAC and many other groups nationwide. Other web sites for mothers who have surrendered children for adoption focus their efforts on self-identification of mothers and bringing attention to past pressure and deception that led to the surrender of their children. The main goal of one group is a survey and inquiry into adoption policies and

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practices between the 1950s and 1970s, such as have been documented by Solinger and Fessler.²³

Except for CUB, which helps print and disseminate literature aimed at expectant mothers at crisis pregnancy centers, all adoption “reform” is aimed at helping adults who have been affected by a generation of misguided adoption practices of the past. Although phrases such as “child-centered adoption” and “humanizing adoption” are used, no organization exists for, or contains within their mission, the goal of changing adoption practices which have became privatized, and often corrupt, businesses.

History of Corruption

While the sale of human beings is slavery and is strictly forbidden, Black Market²⁴ or illegal adoption practices date to the early 1900s. They still proliferate and expenses paid for adoptions fall into a gray area.

In legal adoptions, home studies and other precautions are taken to ensure the best interest of the children in placing them outside their family. Legal adoptions also begin with an original birth record, which is then sealed when an “amended” one is issued. Some Black Market adoptions involve children who are kidnapped, or stolen and sold. Unlike accepting stolen merchandise or soliciting a prostitute, the beneficiaries of such crimes are assumed to be innocent of knowledge of how their child was obtained, regardless of the fee paid or how unorthodox the methods were.

The most notorious figure in adoption’s dark history is Georgia Tann, who operated the Tennessee Children’s Home Society in the 1930s and 1940s and became known as “the woman who stole five thousand babies.”²⁵ Tann was accused of deceiving pregnant women into surrendering their children, which she then sold.

Tann lied about the children's identities to adopting parents, forged birth certificates, terminated parental rights of impoverished parents in order to place their children for profit, and allowed children in her agency's care to die of neglect.

Many adoptive parents in California who obtained children from Tann's agency became her advocates, perhaps unaware that what she was doing was illegal, or simply because they were satisfied customers. Those who adopted from the Tennessee Children's Home Society included celebrities like Joan ("Mommie Dearest") Crawford, June Allyson, and Dick Powell. In 1950 the governor of Tennessee called for a federal investigation which led to the closing of the Tennessee Children's Home Society. Local attorneys and justices were found to be part of the illegal network that allowed out-of-state adoptions and is said to have grossed \$1 million by 1950. Tann died before the investigation was completed.

Another infamous baby broker is Dr. Katherine M. Cole of Miami. Dr. Cole was a naturopathic physician who allegedly ran an illegal adoption/abortion clinic in her apartment house between 1927 and 1963. Pregnant young women would come to her clinic and leave without their children. Thousands of babies were aborted or sold to parents who were not able to adopt through legal adoption agencies. "Cole Babies," as they have come to be known, have Dr. Cole's signature on their birth certificates and no chance of learning their genetic history.

Between 1943 and 1967, police arrested Cole at least seven times²⁶ for manslaughter, attempted abortion, unlawful possession of barbiturates, and failure to file a birth certificate. She was cleared on all of these charges, except for two attempted abortion charges, for which she spent less than a year in jail.

Also called "Granny Doc," Dr. Cole died in 1981 and left no records to help those she delivered find their families.

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While Tann and Cole were operating in the South and West, Brooklyn housewife Bessie Bernard was part of a baby-peddling ring that charged \$2,000 per baby in the 1940s. According to Assistant District Attorney Ernest Mittler, it was "a big time business done on an assembly line basis."

Single mothers were brought from the Miami area and their infants were sold in New York and nearby states, according to the charges brought against Bernard for conspiracy and illegal placement for adoption in December 1949. Bessie Bernard had two codefendants: attorneys Irwin Slater and Harry Wolfson. Slater was in charge of "production," Wolfson was the office manager, and Bernard was in charge of placement and transportation of the babies. Slater drafted formal agreements "just like a bill of sale for a piece of property."²⁷

Today, as always, there are reputable and honorable adoption agencies. The adoption of children from foster care—generally older children, siblings, or children with special needs—are arranged by the State Department of Welfare or Social Services agencies, or by private agencies contracted by a public agency to place children who cannot be reunited with their families. Adoptions from foster care represented just 15.5 percent (19,753) of all U.S. adoptions in 1992.²⁸ This ratio remained constant through the most recent census of 2004.

The remainder are "private" or independent adoptions which the CWLA defines as "adoption that takes place *without involvement of legally regulated agencies*, often involving physicians, lawyers, or others who, for a fee, identify and/or place a child with adoptive parents" [emphasis added]. It is easy to see how fine the line is between legal and illegal private adoption, especially when, as Amy Silberberg of Adoptive Families of America, Education and Policy Council finds: "Money drives almost everything in adoption."

Some private adoption arrangements are made directly, many over the Internet, and others are arranged by facilitators, members of the clergy, or baby brokers. Independent adoptions are arranged for both U.S. and foreign-born children. Doctors still “counsel” women to relinquish their newborns, often in conjunction with cradle-chasing attorneys. They deliver babies and sell or give them to couples—without home studies or any other requirements—who are then named as the parents on the birth certificate. These children grow into adults with no way to trace their roots or find their medical history, even by court order.

In 1979 a destitute expectant mother decided against surrendering through Catholic Charities because “it sounded like the process was that I would know nothing about where the baby would be going and felt panicky about this.” She mentioned this to her obstetrician, “an older man who I looked up to like a father figure and trusted at the time. His face lit up and he told me he knew a couple and spoke well of them. I was eight-and-a-half months pregnant at that point. Apparently he notified them right away (without further discussion) and they got a lawyer involved. At the next appointment, the doctor told me the couple was an addition on their house for the baby. This put a heavy sense of obligation on me, adding two more tons of pressure onto what was already there.

“The adoption wasn’t what I wanted, but in the end, after no forthcoming support or resources (only ‘support’ for the adoption route) I thought going with this couple the doctor personally knew was what I had to do to avoid the black hole of knowing nothing, as would happen with a Catholic Charities adoption. And this way, I felt, there would be a mutual contact through the doctor and his office.

“I remember thinking that if he ever had an accident and needed a blood transfusion, for example, they would contact me and I would be there; and that when the time

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came that he wanted to contact me himself, he would be able to. As it turns out, NY (where the adoption took place) is a sealed records state.”

An Ob/Gyn also arranged the adoptions of the two children given to Joel Steinberg, a New York City attorney who was convicted in January 1989 of second-degree murder in conjunction with the beating death of Lisa, one of his two illegally adopted children (see Chapter 9 “Little Lisa”).

New York State appellate Judge George Marlow found the state wasn’t adequately protecting the interests of children in adoption cases. In a decision in 2005, he said: “History surely knows cases where mistakes have been made and children’s best interests have been secondary, or even worse, irrelevant to an adult’s agenda.”²⁹ Mistakes are indeed made. Intent to profit at the expense of children is not a mistake.

Chapter II: Motherhood, Myths and Metaphors



Nothing is more difficult than competing with a myth.

Françoise Giroud



With all due respect to fathers and fatherhood, to which an entire chapter is devoted, adoption as it is practiced in the U.S. today, has a great deal to do with replacing one method of becoming a mother with another. Motherhood is deeply embedded in cultural mores and expectations, revered, and sacrosanct. At the heart of infant adoption is the compelling desire for motherhood against all odds and at any cost.

Adoption mythologies fit well within the framework described by Roland Barthes,¹ as the tendency of socially-constructed notions, narratives, and assumptions that have become “naturalized,” or taken for granted within a culture. As such, myths are created to support the notion of adoption as a replica of naturally occurring motherhood.

Many of these adoption myths combine to form a meta-narrative—a story told to justify another story, especially involving artifice; a story about oneself that provides a view of one's experiences. Meta-narrative, also called grand narrative, offers the framework for interpreting the role and importance of particular myths, such as creation. The majority of meta-narratives tend to be relatively optimistic in their visions for humankind. Others describe meta-narratives as stories employed to

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legitimate the mechanisms of social control²—a definition which seems made-to-order for adoption stories.

“Women have been carefully trained to want motherhood,” says Barbara Katz Rothman, author of *Recreating Motherhood*, “to experience themselves and their womanhood, their very purpose in life, through motherhood. And that is wrong.”³

Despite feminism’s gains in increased educational and career opportunities for women, the intense loss felt by a woman’s inability to bear a child has not diminished. The one shift that has occurred is that some now feel entitled to one at any cost, feeding two multi-billion dollar industries: the reproductive technology sector (\$3 billion) and the adoption sector (\$2 billion a year and growing).

Motherhood, once revered because upon it depends the future of the human race, has become a “class privilege in America, and much of the industrial world,”⁴ a matter of who can afford to have children. For the rich, “today it is possible to order babies from a menu of convenient options,”⁵ including purchased eggs and sperm, gene selection, or renting a womb—options obviously not available to the less wealthy. **Entitlement to a baby—even one’s own—is often based on financial ability or the advantages one has to offer.**

One of adoption’s many ironies is the myth that “love conquers all.” While adopters are told this, less affluent women are told that their babies need more than love. Motherhood is at once held in high regard, sought after and admired, and yet, at the same time reviled when attempted by less advantaged women. Some women, because of age, marital status or finances, are viewed as selfish for wanting to keep and raise their child. Many are pressured to do the “unselfish” thing and let the child go to a stranger who can provide the child with more “advantages.”

Yet it is not considered selfish for infertile women to desire another's child. Rather it is often seen as altruistic. Nor is it seen as "selfish" if a woman "desperate" to adopt does not feel capable of parenting one of the hundreds of thousands of children whose parents' rights have already been revoked or to accept childlessness.

Mothering is unpaid work, reflecting its lack of respect in a capitalistic society. Upper-class women have long hired the productive labor of lower-class women as babysitters, nannies, and daycare workers, often paying barely minimum wage. It has, therefore, not been a leap to purchase another's reproductive labor, expecting women to suffer the emotional and physical stress of pregnancy and childbirth for the sake of another. Surrogacy and some aspects of adoption have created female chauvinists who objectify other women.

Advocates exist to end the exploitation of sweatshop and undocumented workers, protest female genital mutilation, or help prostitutes leave the business. There is support for women who have been sexually assaulted and who are survivors of domestic violence, and some crusade for women who are incarcerated.

In all of these cases, there is empathy and even outrage on behalf of women who are exploited by men or patriarchy. It is more difficult, however, to face a woman's most painful violation—that of taking her child, often leaving her a legacy of guilt and shame for not being able to care for her child—because it is most often another woman who benefits from her loss. Adoption pits woman against woman, rich against poor, making it painfully difficult to look at and admit. Adoption is racist and classist and often exploits women and commodifies their babies. Mothers who are resourceless and struggling to keep their family together can either be offered the help they need to stay together or seen as a source of supply to meet a demand. Mothers and other family members in developing countries unable to feed their babies could be sent the funds they need to do so,

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or have their misfortune exploited for another's advantage.

Reuben Pannor, author, researcher, teacher and past director of Vista Del Mar Adoption Agency in California confirms: "Most infants placed for adoption come from poor families. Check with any of the adoption agencies and their adoption lawyers to verify that the number one reason for relinquishment today is the inability to afford to raise the child. This is a sad commentary on the richest and most powerful country in the world. Even poor married couples are relinquishing their children."⁶

Those who adopt can choose to be part of the solution or part of the problem. However, Americans, for the most part, have come to accept a classicist parenting criterion. It seems that some would advocate taking all babies from the poor and giving them to the rich in some bizarre social engineering process.

Robinson notes that as a result, "rather than adoption existing to serve needy children, adoption seems to exist to a large extent to serve needy adults. In some sectors of the media in North America, the idea that certain people have a right to acquire a child, by any means at their disposal, seems to go unchallenged."⁷

Americans are very judgmental of mothers. We condemn those who take motherhood for granted and those who do harm to their children, often with disregard for the circumstances that led to the tragedy. We expect women to be nurturers and are much harsher in our condemnation and punishment of women's than of men's violence against their children.

"[W]omen are often unfairly judged regardless of the choices they make regarding an unplanned pregnancy," notes Thomas R. Suozzi, Nassau County (NY) Executive. "Women who choose to put a baby up for adoption have their maternal instincts questioned and women who carry an unplanned pregnancy to full term when unmarried or financially insecure are often labeled

irresponsible. In our culture...women are too often and too readily judged. Our efforts should not be to judge women. Rather, our goal should be to support women.”⁸

Elizabeth C. Hirschman’s *Babies for Sale*⁹ describes a “sacred/profane continuum” with unwritten rules as to who deserves to be a mother, under what conditions motherhood is a blessing, and when it is not. In the battle for babies, mothers without means are seen as less deserving and not at all entitled. If you are rich, even if you are single, that somehow entitles you to take a child from other single women, here or abroad, through adoption. And, conversely, if you are poor, especially poor and single, you do not deserve to be a parent and should surrender your child to someone who is “better.”

Into this dichotomy steps a mother-to-be, unsure of her ability to live up to the standards expected of her. Lacking support and vulnerable, an expectant mother in this situation is often befriended and courted by those who hope to be the beneficiaries of her baby, often pressuring her—overtly or covertly—toward surrendering her child as an unselfish act.

It is almost impossible to imagine being faced with the Solomonic decision of letting a child be adopted by unrelated strangers. Many who adopt are encouraged to believe that mothers make a “plan” to surrender a child for adoption. It is far more painful to accept that they often simply lack options or support to maintain their parentage. The term “voluntary” with regards to a mother’s relinquishment for adoption may also contribute to misunderstanding. This legal terminology means the mother signed papers relinquishing her rights rather than the state terminating her rights, as in cases of abuse or neglect. Thus, almost all infant adoptions are in this sense “voluntary.”

Women (with the exception of intentional surrogates), however, do not become pregnant with the *intent* to surrender a child for adoption. They would prefer not

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to be pregnant until they are able to care for and raise their child or to receive the support they need to keep their child. A relinquishment signed by a mother does not ensure that it was obtained without pressure or coercion.

Rothman notes, “Thus ‘informed consent’ becomes a crucial American legal concept: if one consents or agrees to something *rationally*, then one accepts the consequences. But liberal thinking with its emphasis on rationality does not seem equipped to understand the more subtle forms of coercion and persuasion, whether psychological or economic, so the ‘choices’ people make out of their poverty or need, choices individuals may experience as being coerced, liberals tend to see as being fairly chosen.”¹⁰

“Open adoptions” where the relinquishing mother “chooses” parents for her child, increase the appearance that a mother is making a free choice, even if that is not the case. Some mothers come to feel *content* with the level of openness in their adoption, but they still suffer a loss.

How much less blame society or individuals have to bear when it is believed a mother has chosen adoption? Yet, once a mother is “relieved” of her burden, a fear of the majority of adopting parents is that this woman—who allegedly did not want her child—will change her mind and steal it back. Friedman, an adoptive mother in an open adoption with a blog at womanatwork.com, describes what she called “fear-mongering” of well-intentioned friends and acquaintances who had seen stories of children snatched from adoptive families by their birthparents. Friedman reports wondering what kind of woman would have the strength to walk away from her baby and then come back for occasional visits.

Childless Mothers

Fear that a mother who relinquishes her child for adoption might attempt to reclaim her child is based on the old adage that blood is thicker than water. It is this deep-seated belief in the power of blood ties that requires the creation of most all other adoption myths. Fear of alienation of affection is fanned by comments such as that experienced by Friedman who recalls being asked: “What if your child likes [her mother who surrendered her] more than she likes you?”¹¹ Fears are further exacerbated by the media, which inflates the rare cases of mothers reclaiming or attempting to reclaim babies they have placed for adoption. Such fears can prevent some who adopt from revealing anything about the adoption to their child.

Fear is also often based on doubt, uncertainty, and lack of information. Adoption is defined as merely to *take* as one’s own, a definition that denies the existence of who adopted children were taken *from*—as if they sprang from the proverbial cabbage patch. Class and cultural division, preconceived notions about maternal instinct, and lack of accurate information about mothers who surrender can contribute to fear. Therapists Mary O’Leary Wiley and Patricia Baden found that parents who surrender children for adoption, are “probably the most stigmatized and marginalized members of the adoption triad, sometimes by other members of the triad themselves.”

Lisa, a prospective adoptive mother commenting on WomanatWork.com, said: “Adoption is the only reasonable means, at this point in our lives, that we have to experience a beautiful child looking up at us and calling us Mommy and Daddy. Putting focus on a birth mother, giving her—in essence—‘visitation rights,’ and becoming exposed to consistent reminders that our baby is not

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‘genetically’ ours... the idea makes us extremely uncomfortable.”¹²

Fears, which take many forms, can be alleviated by the legality and level of security one has with the methods used to adopt as well as getting to know the mother of your child as a real person.

Over the years, I have met and spoken with many mothers who surrendered. We helped each other to know we were not alone. Searching for and reuniting with our surrendered children to ensure their well-being remains a primary goal for many mothers in closed adoptions. This includes adoptions which began as, or were promised to be, open. Others do not initiate a search but wait for their child to do so, or are found while in denial. Denial is used as a coping method with mothers remaining in denial for varying amounts of time from never to forever. One by one, however, mothers continue to reclaim those parts of themselves that had been lost with their children.

The vast majority of mothers had no other option and a great deal of regret. Most felt pressured by their families and/or encouraged by clergy, well-meaning social workers, or couples desperate to adopt. In a 2006 online survey of mothers who relinquished, eighty-two percent of the 424 respondents reported feeling pressured to relinquish. Sixty percent said they experienced coercion, signed under duress,¹³ or felt their legal rights had been in some way denied.

In a social context of concern about the ruined “reputation” of a single mother, many were told that they would forget, go on, and have other families. Some followed advice and never told their husbands. Some never told therapists who were treating them for depression or anxiety. Today the pressure is often fear of disappointing a couple who is planning to obtain one’s child.

Wiley and Baden found that “[w]hether they are upper-middle-class young women with career aspirations and family support, birthmothers in the Marshall Islands (South Pacific) whose culture and language do not permit an understanding of permanent voluntary termination of parental rights...or parents with multiple problems that lead to the involuntary termination of parental rights, birthparents experience a loss that is nearly unparalleled in society.”¹⁴

Robinson describes the experience of loss: “The loss of a child through adoption is usually a loss which cannot be openly acknowledged, which is why mothers often suffer in silence. Losing a child through adoption is seldom publicly mourned because everyone is so busy pretending that it has not happened and it certainly is not socially supported.” Robinson adds: “The grief has been repressed because there has been no opportunity to perform the necessary grief work. Reunion provides that opportunity.”¹⁵

Those profiting from adoption—and some who adopt—like to believe there is a small vocal minority of mothers who are angry or bitter (as noted by the online *Encyclopedia of Adoption* at Adoption.com).¹⁶ Anger, like denial, is a normal stage of grieving a loss. Anger can be very empowering when channeled toward preventing future pain and loss.

As in any industry, however, those whose profits would be reduced by accusations of unfair business practices would prefer to silence or discredit their accusers, often calling those who speak out whistleblowers and/or “disgruntled.” They are also often discredited with the notion that “that was then” and things are different today. It is true that the reasons mothers are pressured to surrender change with the times, but the pressure and coercion still exist, and in many ways has been exacerbated by the privatization and commercialization of adoption.

The “Same As” Myth

The replication of motherhood begins with the remaking of its foundation—perhaps the most powerful myth in the world—the creation myth. Wherever Mother-Goddess worship is replaced by monotheistic male deities, women become relegated to the vessel for man’s seed. Thus, motherhood plays no part in the story of creation, as told in the book of Genesis. Adam is not born of a woman, but fashioned by the hand of a male God from a man’s rib.

As women take on previously “male” roles in academia and business, some adopt characteristics that go with that role. Some of this machismo has transferred into the family realm, adding to women’s feelings of entitlement and, thus, allowing women to see other women as “vessels” that carry children for them.

Hence, when traditional methods of creating a family have failed, and all available and affordable technology to recreate procreation have been exhausted, there is always someone to convince an infertile woman or couple that adopting a child will be “the same as if” that child were born to them. So deep is the “same as” myth that actress Sharon Stone, mother of two adopted boys, was quoted as saying: “Our [adopted] kids look so much more like us than birth children look like their parents.”

Sigmund Freud believed “the oldest and most burning question that confronts immature humanity” is: “Mommy, where do babies come from?” The fable of a stork delivering babies originates in Dutch and German fairy tales. It served generations of parents well in dealing with this sensitive question.

Today, some adoptive mothers create their own myths. Rosie O’Donnell told her adopted son that “he

grew up in another lady's tummy, [but] God looked inside and saw there was a mix-up and ... God brought him to me."

"God" is used in this myth to reinforce a belief that one woman was simply a vessel or vehicle for another to replicate motherhood. It is quite creative to believe that a "Supreme Being" leads some to far off lands, and allows great sums of money to be spent on the adoption of domestic infants, while allowing other children to remain in foster care.

According to the online *Encyclopedia of Adoption*:¹⁷ "Most people who adopt [non-related] infants, are infertile or believe themselves to be infertile" or have difficulty carrying a pregnancy to term. Infertility affects one in every six U.S. couples of childbearing age.¹⁸ In the 1960s, when there were ample babies being surrendered for adoption, infertility was required by some agencies. This practice began a preference for childless couples as "more deserving." Like much of the thinking of those days, this was erroneous.

Infertility is a medical problem deserving attention, compassion, and solutions. It is not, however, a criterion for adoption. Children thrive just as well, if not better, in homes with parents who are able to conceive children. Conversely, one does not need to adopt an infant to experience parenting. Recognizing that adoption is separate from reproduction and infertility is not meant to diminish the anguish of infertility.

Rothman expresses it very well: "In a better world, in the world I would want us to have, there would be virtually no women giving up babies; contraception, abortion, and the resources to raise her own children would be available to every woman. But in a better world, we would also devote our energy to solving infertility, solving it on its own terms, curing physical problems with physical solutions, and most important, preventing these physical problems wherever possi-

ble.”¹⁹

While many infertile couples and singles would not adopt if they did not believe it was the “same as if” the child were born to them, few create such elaborate tales. Yet, the ultimate manifestation of the “same as” myth is adopting mothers likening the arduous process of adopting to “labor pains.”

Problems of Pretense

It used to be considered a sign of emotional imbalance when women pretended to be pregnant and then brought home an adopted baby. Incredibly, a small number of professionals encourage such behavior. Michael D. Trout, Director of The Infant-Parent Institute in Illinois, for instance, believes that parents waiting to adopt “need to be pregnant, too, to do their work, to experience [the] range of feelings.”²⁰

This Orwellian use of language may well have its roots, if not its justification, in the legal process of adoption, specifically the issuance of a falsified birth certificate stating that the child was in fact born to those who adopt him or her.

Interviewing Trout for Adoption.com, Marcy Axness challenged the absurdity of such newspeak: “I don’t think you and I disagree at all about the need for a time of preparation for parenthood. I just wish there could be another term, a precise word especially for this situation, other than ‘pregnancy.’ To me it smacks of the bad old days in adoption when adoptive parents were instructed that their adopted baby would be ‘as if born to’ them, and the pervasive attitude on the part of prospective adoptive parents that as soon as they could ‘get that baby’ they could, in a sense, not be infertile anymore.”²¹

It seems cruel to use a pregnancy metaphor when most people adopting infants do so after years of failed conception and/or miscarried pregnancies. In addition, it

takes far more than nine months for an adoption to be finalized, thus comparing adoption to pregnancy can add to anxieties. Imagine feeling pregnant for years.

Awaiting any major life event creates a feeling of being “pregnant with anticipation” and a subsequent let-down. For adoptive parents, the letdown has been labeled post-adoption depression syndrome (PADS). Unlike postpartum depression, which is primarily caused by hormonal changes, PADS occurs because with adoption “...attachment is a different process,” says Robin May, a social worker with the Children’s Aid Society of Ottawa who presents seminars on post-adoption depression syndrome. Relying on pregnancy analogies, instead of facing these differences, may thus impede a mother’s understanding of the cause of, and solution for, her depression.

For the new adoptive mother, looking at her baby and seeing a stranger, forces her to accept the sad reality that it is *not* the “same as if” she had birthed this child. It has caused some adoptive mothers to realize that they will still always wonder what their “own” child would have looked and behaved like. Pregnancy metaphors do nothing to help prepare new adoptive mothers for the feelings of loss that may surface.

June Bond, a mother of six children, four of whom are adopted, and South Carolina’s Adoption Advocate of the Year in 1995 offers strategies for dealing with PADS.²² “Many adoptive parents feel that they must face and sometimes resolve their feelings about infertility again with the placement of a child,” says Bond. PADS often stems from a slower than expected bonding. Recognizing and honoring differences is healthy and does not diminish either.

Mary and Claude Knobler, had two children “of their own” (sic) when they decided to adopt a five-year-old Ethiopian boy. Mary reflected on her PADS as feeling confused and overwhelmed, and began to grieve the loss of her family, as she knew it.²³

Acknowledging the differences and challenges of adopting versus birthing is best dealt with by professional counselors prior to the adoption. Lack of counseling and screening adds enormous stress to adopters and can put children at great risk. Seventy percent of mothers experiencing PADS claimed that the depression interfered with the transition and bonding with their new children. As many as seventy-seven percent of adoptive parents experience PADS, yet because of the high rate of private adoptions, only eight of the ninety-four people who reported PADS said they had been advised by their agencies that the syndrome even existed according to a 1999 survey undertaken by Karen McCarthy.²⁴

The pursuit of a child can lead people to take children from orphanages in which they have been neglected; children born with alcohol fetal syndrome, and other serious developmental problems, known and unknown. Some sixty percent of internationally adopted children have health problems, says Dr. Nancy Curtis, who heads Children's Hospital of Oakland's International Adoption Clinic. Many adopting parents are ill-informed, misinformed, or lied to about physical or emotional health problems of children they intend to adopt. Emotional attachment to a new family and language can be difficult even for a healthy child who has lived in an orphanage. Yet 80 percent of those who adopt internationally had no idea any health or behavior problems existed until they got home. Lack of complete, accurate and updated medical history can be a problem in domestic adoptions as well.

"It can be very stressful," Dr. Mark Lerner, a psychologist and president of the American Academy of Experts in Traumatic Stress, says of adopting, adding that parents are not usually prepared for how difficult it

can be. “A statement I hear over and over from parents is, ‘I didn’t sign up for this.’”²⁵

Dr. Michele Zembow, a psychologist in Maplewood, N.J., and the single adoptive mother of a girl from China, describes an “anxious type of depression” she experienced after the adoption. “I felt like I had this romanticized, idealized version of what it would be like that was not at all true.” Zembow felt overwhelmed by the baby’s round-the-clock needs. She experienced anxiety, bouts of weepiness, and felt isolated and lost. At times, she found herself yelling and short-tempered with her toddler, whom she says she adores.²⁶

There is, however, no lack of adoption practitioners and authors to fuel myths such as “love cures all” and that it will be “the same as if” the child were born to his adoptive parents. Sherrie Eldridge in reviewing *The Post-Adoption Blues: Overcoming the Unforeseen Challenges of Adoption*, by Drs. Foli and Thompson, exemplifies the pregnancy metaphor by saying: “Birth-ing an adopted child into the family is just as taxing, and probably more so, than giving physical birth...”²⁷ Difficult and taxing, yes, but “birthing an adopted child” is pure science fiction in the realm of Margaret Atwood’s *Handmaid’s Tale*.

Another factor contributing to false expectations followed by letdown is adoption agencies and intermediaries who ask potential adopters which physical and and/or emotional challenges they can and cannot deal with. This process encourages prospective parents to perceive the process as a guarantee of performance and can create feelings of having been deceived and betrayed when their child has unexpected problems.

Many adoptive parents, faced with rearing a child with unforeseen medical and emotional issues, rise to the occasion just as they would have had they given birth to a child with unexpected disabilities. But horrific consequences can and do result for some children who

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do not live up to unrealistic expectations of adopters, resulting in increased numbers of terminated (sometimes called disillusioned) adoption, or adoption disruptions.

Social Worker Robin May has seen cases of “post adoption syndrome” so severe that parents have returned the child they adopted. She notes that: “There is nothing more stressful than having a child, except perhaps adopting a child.” The National Adoption Information Clearinghouse (NAIC)²⁸ estimated in 2004 that ten to twenty-five percent of so-called “forever families” are, in fact, not permanent.²⁹

In addition to adoptions failing, adopted children have also been subjected to beating, shaking, starvation, caging, and sexual abuse, and one additional form of abuse reserved specifically for children who are adopted. A controversial “therapeutic treatment,” known as Rebirthing Therapy, Attachment Therapy (AT), and Holding Therapy, which is alleged to treat reactive attachment disorder, or the normal and understandable difficulty children who have been through multiple placements and/or institutionalized have in trusting and bonding.

AT has been directly linked to the death of at least one adopted child, ten-year-old Candice Newmaker. Two therapists, Connell Watkins, a pioneer in the treatment of “Reactive Attachment Disorder” in children, and her associate, Julie Ponder, a marriage and family therapist from California, were convicted of reckless child abuse in conjunction with Candice’s death.

Jeane Newmaker adopted Candice when the child was six years old. The little girl, diagnosed with attention deficit disorder, depression, and posttraumatic stress disorder, never let her mother hold her. Jeane took Candice from their home in Durham, North Carolina, to Evergreen, Colorado, to undergo a two-week, \$7,000 program to give her the ability to form emotional attachments.

Videotapes of the “treatments” shown at the trial were described by reporters as torture. Part of the intent of the “treatment” was to get Candice to deny her abusive, uncaring birth mother and accept Newmaker instead. There are no reports, however, that Candice was ever abused by her mother, Angela Elmore.³⁰

Newmaker faced charges of negligent child abuse, carrying a possible jail sentence of four to sixteen years. The sentence was suspended for four years, effectively making it probation, though at the end of the term, her record will be cleared.

Survivors of the technique describe near-death experiences of not being able to breathe, vomiting, and panic, as therapists or the adoptive parent sit on the child’s back or chest, in an effort to break the child’s will. The process, called “rebirthing,” takes the need to replicate pregnancy and birthing terminology to the utmost extreme.

The findings of the Task Force on AT of the American Professional Society on the Abuse of Children (APSAC) have been adopted by the American Psychological Association’s division on child maltreatment. Those recommendations call for a total halt of the use of AT, the use of the bogus diagnosis “Attachment Disorder,” and all AT parenting methods. In addition, the APSAC recommendations suggest that child welfare workers investigate situations where parents use AT methods as “suspected child abuse.” Colorado Gov. Bill Owens signed “Candice’s Law,” which bans reenactment of the birth process when it uses restraint that carries a risk of death or physical injury.

There are still practitioners claiming that AT “is a treatable condition characterized by problems with the formation of emotional attachment to others. Children with this condition have had problems or serious disruption in early childhood parent-child relationships. These problems have affected the child’s social, emotional and behavioral systems.”³¹ Treatments are, in some cases,

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paid for by social services. There was the case in 2000 when Jennifer and Gregg Wold took their foster son Michael for AT treatments, after he was “officially diagnosed.” However, Michael’s behavior improved only after being prescribed Risperdal, an antipsychotic drug.³²

Others who adopt act in ways which not only are in opposition to treating a child the “same as if” she were born to them, but also act in ways that undermine the permanent intent of adoption. One such method of dealing with adopted children was reported in the January 2006 issue of *USA Today*³³ with the arrest of leaders of “an underground network of families that take in [adopted] children others do not want.” Some families, the report states, “do so legally and eventually adopt the children, but others may violate child welfare laws by failing to notify authorities.”

The article quotes Ronald Federici, a neuropsychologist in Alexandria, Virginia, and author of *Help for the Hopeless Children*, who has adopted seven children, as saying: “Dump and run—it happens all the time.” One adoptive family abandoned a child in his office. Federici says there are hundreds of email chat rooms in which people who adopted children are trying to find new homes for them outside the public system.

“They don’t want to sell the kids. They just want to get rid of them,” says Federici, explaining that the children may have health problems the adoptive parents never expected: “It’s not the merchandise they bought.” Federici says many of these parents are looking for the cheapest and fastest placement, and that many are highly motivated, well-meaning people. Dr. Federici said that he is seeing “a much higher incidence of problem cases” that lead to failed adoptions, especially among Russian and Eastern European adopted children he treats.

Most agencies in the U.S. won’t take [back] a child from overseas, so families are stuck on their own,” says

Susan Meyer, a Florida adoptive mother of twenty-eight children and founder of the Foundation for Large Families. According to *USA Today*, Meyer said that “states burdened with U.S.-born children, don’t want to take these children into the public foster-care system.”³⁴ Meyer adopted an autistic girl from the Ukraine, whom she found “through friends” after the child had moved from family to family following a disrupted adoption.

- In 2000, Denise Thomas of Littleton, Colorado, was put on a year’s probation for trying to sell her eight-year-old, Russian-born daughter on the Internet. Thomas contended she was trying to find a new home for the girl, and wanted to recoup some of the costs of the girl’s adoption and medical care.
- In February 2004, Diana Groves of Bloomington, Indiana, was charged with child abuse. A single woman, Groves was raising thirteen unrelated children, and had adopted some of them. Groves’ charges included duct-taping some of the children to a wall and hitting them with a tennis racket. Brad Swain, a detective in the Monroe County sheriff’s department, says Groves acquired the kids by “loose word-of-mouth” and received financial support from private individuals. Groves had three separate, unrelated felony convictions.³⁵
- In December 2004, Frances Ellen Matthews of Kenton, Tennessee, was found guilty of child abuse. Matthews, who reportedly took in children “through private arrangements,” was caring for sixteen children, many with severe disabilities, at the time of her arrest. Ten have been returned to her home.³⁶
- In 2004, Debra and Tom Schmitz were charged with abusing some of their eighteen children, most of them disabled. The state of Tennessee says Debra Schmitz threw a knife at one child, held two children

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underwater for punishment, and forced five to dig their own graves.

Schmitz pleaded no contest to fourteen counts of child abuse and one count of trafficking in children in a case in Gibson County Circuit Court. She received the maximum eleven months and twenty-nine days on each count of child abuse, all of which were suspended except for six months on each count. She received the *maximum thirty days on the child trafficking charge* for sending a child outside Tennessee without the permission of the state Department of Children's Services. However, her sentences are running concurrently, so she will only serve a total of six months.³⁷

- In February 2000, a Georgia couple was featured on the CBS news magazine show *48 Hours* as they took their nine-year-old adopted daughter back to Russia, saying they couldn't find the psychological help that she needed in the United States. They later dissolved the adoption.

All of these children had been adopted by families who meant well. Sadly, many of the children who do not live up to their adoptive parents' expectations were adopted from "overseas." Adoption is a lifetime commitment and, therefore, requires professional counseling for all parties, something that is not required by private adoption practitioners and agencies. It behooves those planning to adopt to employ due diligence, consulting impartial sources and obtaining as much information as possible, and contacting a family therapist to assess their strengths, hopes, expectations, and limitations.

Two Mothers

At least one adoptive mother has openly discussed having a problem bonding with her newborn that involves

the antithesis of pretense. Prior to adopting openly, Dawn Friedman thought, “It all sounded so strange and it was weird to me to hear the birth moms say, ‘I’m going to see my son!’ Or, ‘My daughter loves Lion King so I bought her this!’ Your son? Your daughter? I thought they were kind of delusional. To my mind at that time, you place your kid and you’re not the mom anymore and they’re not your kids anymore. And I thought it was very generous (not to mention foolish) of the adoptive parents to let the birth moms visit because it all seemed very emotionally incestuous and crazy-making and rife for conflict. And wasn’t it preventing these women from getting on with their lives? Why were they still carrying around pictures of some baby they didn’t even have anymore? I mention this because it was how I thought about open adoption before I ever cracked a book on it. It’s not something I love admitting.”

After learning about the process and adopting openly, Dawn’s feelings changed drastically. “Frankly, I had a hard time bonding to [her daughter, Madison, after the adoption].”³⁸ Dawn describes very poignantly in an article on Salon.com³⁹ how she kept seeing Madison’s mother every time she looked at Madison and felt great compassion for her daughter’s families’ loss. She had trouble justifying her adoption of a child who hadn’t been abandoned or languishing in foster care or an orphanage. Dawn also felt awkward, and like a liar, when people would say that her daughter looked like her.

Friends told her to stop taking the mother’s phone calls. Instead, she talked to J [Madison’s mother] and got what she needed to bond: “permission” to be Madison’s mother. J repeated that it what was wanted. Dawn began to recognize “J’s position as noun mother doesn’t have to diminish my work as a verb mother. Likewise, I need to always remember that mothering doesn’t erase

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her very important position as Madison's Life Mother.”⁴⁰

Snow Job

Nightlight Christian Adoption's Snowflake program prides itself on being the country's first embryo “adoption” program. The Snowflake program is run by Attorney Ron Stoddar who lobbies against embryonic stem cell research. Stoddar turned excess embryos from couples who had used in vitro fertilization into a business.

Danette Gillingham has two sets of twins she gave birth to after purchasing embryos through Snowflake. In a July 2006 ABC Action News' story about the process, Gillingham said, “In my heart I wanted to carry a baby, I wanted to give birth and I think most women who want to be a mom would say that's the way they prefer to do it.”

Capitalizing on such desperation, the Snowflake program sells fertilized human eggs for \$5,000. Called a “program fee,” it is simply the price of an embryo and does not cover any medical expenses involved in thawing and implantation.

Gillingham calls the program “[a] frozen orphanage of sorts and they're waiting for families to come and rescue them.”⁴¹ Embryos, however, are not children for whom state funds are being spent on their care. Every woman who realizes her dream of parenthood through such methods takes an opportunity away from the hundreds of thousands of children in foster care waiting for families to come and rescue *them*.

While there are currently no state laws governing embryo adoption, according to Nightlife,⁴² it is illegal in most states to arrange adoptions prior to birth. Nightlife, however, is located in California, the state with the most liberal adoption laws.

The “Win-Win” Myth

It is far easier for the general public to identify and empathize with the plight of someone who desires to be a parent and cannot, than with expectant mothers needing support. Thus, media coverage and public sympathy are often expressed for the problem of the dwindling supply of infants not meeting the demand of infertile couples who seek to adopt them. Many lament the “shame” of the lack of “adoptable” babies, and describe painfully desperate attempts to adopt and “deserving” couples being forced to endure long waiting periods, traveling overseas and/or paying exorbitant fees, and being victimized by scammers.

While there is also concern for the 134,000 children in need of secure homes, the publicity given to people seeking infants to adopt often overshadows, or at least clouds the issues. Children in foster care are at great risk, yet often there is a lack of connecting the dots despite references to “waiting families”⁴³ and “waiting children.”

What is overlooked is that the intended purpose of adoption is not to fix infertility but to find homes for children whose families cannot raise them.

Babb found that few “have attempted to dispel the myths and traditions in American adoption practice that so often meet adult needs at the expense of children.”⁴⁴

Clearly, not everyone seeking to adopt is capable of parenting older children or siblings, typically the children who are most in need of permanent homes. However, the astounding fact is nearly forty percent of American adults, or 81.5 million people, have considered adopting a child. If just one in 500 of these adults adopt, all of the 134,000 children in foster care waiting for adoption would have permanent, loving families, according to the new National Adoption Attitudes Sur-

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vey.⁴⁵ This is the disparity of supply and demand that should be of most concern and the one for which solutions are sought.

Adoption as it is currently practiced is not a win-win for children in foster care, nor is it the first choice for mothers who surrender. Nor is it the option of choice for those who adopt infants. It is rather a last resort after trying every method of conceiving and carrying a pregnancy. Adopters of infants would rather conceive and carry a child “of their own.” Once all other options are exhausted, those in this back-against-the-wall “choice” entrench themselves in the pervasive myth that adoption is a “win-win” for all of the parties involved. Friends and family often try to help not only expiate an infertile woman or couple’s sadness at not being able to have a child, but encourage them to think that they are performing an altruistic act of saving a child and helping the child’s mother. Thus, adoption is made to appear as a winning solution to assuage disappointment.

There are, however, losses for every win, and not just for the mother who surrenders. For the adopted child, the challenges are real as well, regardless of the amount of love, security, advantages, and opportunities adoption may provide. Every adopted child must develop into an independent adult:

1. Learning that there is no biological connection to those raising him.
2. Assimilating an identity crisis that contains a *real* “fantasy” mother, which may be complicated by being of a different race or ethnicity from the rest of the family.
3. Thinking that her first mother loved her so much she gave her away to others, and trying to be “good enough” not to be given away yet again.
4. Dealing with feelings of abandonment and rejection,

and perhaps secret-keeping about the entire process of his adoption or his roots.

5. Being required, overtly or subtly, or naturally feeling, a sense of gratitude for having been saved or rescued. Many adoptees express feeling lucky not to have been aborted, though they are no luckier for that than anyone else.
6. Learning that many decisions were made about what was best for him/her that he/she had no control over.
7. Growing up with little or no medical history, and in many cases unknown ethnicity.
8. Being forever denied the same rights as non-adopted adults with regard to access to his or her own birth records.

The “Better Life” Myth

Providing a “better life” for a child through adoption used to mean providing two parents: a mother and a father. For mothers of my generation who relinquished children to adoption, that was a primary (sometimes the only) reason for surrendering, or being pressured to do so. Today, however, same-sex couples and single women are among those competing for children of single women who have fewer resources. While they may in fact make wonderful parents, it makes it clear that “better”—in private adoption—simply means having the ability to pay fees.

A “better life” is perhaps the most influential factor in convincing the pregnant or newly delivered mother to surrender. She must be convinced that she is not capable of being a good mother to her child and that others will provide her child a “better life.” Expectant mothers are advised to finish school, even college, and are warned about the cost of raising a child.

She is likewise made to believe that she is doing a wonderful thing for a childless couple or woman and that she is saving her child from a life of misery. Many mothers are worn down with the “better life” mantra playing on their maternal instincts. “If you really love your child,” she is told, until she believes it, “you will do the unselfish thing and surrender it.”

It is only when she comes to accept that she is unfit to be her child’s mother, and others are more “deserving” or better equipped, that she can place her child for adoption. Only in full belief and acceptance of the myth of the “better life” can she perform this otherwise heinous act. The message—which remains imprinted on the mother’s psyche—is that she is unworthy, incapable, unfit, undeserving to raise her child.

Providing a “better life” not only justifies adoption, it ennobles and “sells” it. Myths such as this are promulgated in order to maintain the supply of healthy newborn white infants demanded by adopters. Without being able to convince mothers that adoption will provide a better life for their infants, the only children who could be adopted would be those whose parents’ rights had been involuntarily terminated: older children in foster care.

All parties enter into adoption believing that it will provide a better life for the child. **The reality is that there is no guarantee that adoption will provide a better life, only a different one.** Adoptions fail at a rate of ten to twenty-five percent. Adoptive parents die, divorce, and abuse their children, and these are not included in, but are in addition to, the failure rate. On the flip side, single mothers seldom stay single or poor forever. Many go on to be productive citizens with careers and/or raising children well and capably.

Adopted children have unique challenges around issues of identity and feelings of abandonment, regardless of how loving their adoptive parents may be. A mother whose son died at twenty-seven describes the

deeply troubled son who found her when he was twenty-two:

He struggled on a daily basis... with work, with life, with people, with sleep. God knows how he suffered....I never met anyone else before in my life who was as tormented as he was.

His [adoptive father] also told him what he paid for him (legal fees), and as a child [my son] interpreted this as thinking that I got the money and thought the typical story: that he was cast off by a cold uncaring mother. That he was unloved and rejected. It didn't matter that I had struggled for nine months to try to find a way to keep him; that was totally erased. [He was] led to believe that I could have stopped by to see him any time if I wanted. (I didn't know them or where they lived, this was a closed adoption!) But he always waited. He cried a lot as a child, then later the anger came.

[W]hen he was seven years old the priest told him that he would have gone to hell if he hadn't been adopted, and when another adult in his life told him to get down on his knees and thank Jesus Christ he had a roof over his head. As you can imagine, these were not good memories or accurate representations of God's love for a child.

My hope for him now is that he is finally at peace. I know he was a tormented soul, and the adoption especially was something he had much difficulty coming to terms with. I think what he wanted more than anything else, was for unity among all his family.⁴⁶

The Rescue Myth

There's an old joke about a boy scout who sees an old lady with a cane standing at the corner. She would never be able to make it across the street before the light

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changed. He gallantly approached and offered his arm to escort her safely to the other side, thinking to himself that this would be his good deed for the day. She said, “Thank you son, but...” He interrupted and said, “No need to thank me, Ma’am,” and slowly assisted her to the other side of the intersection, being sure that the cars all waited for her. When she was safely on the other side, she said, “Well, thank you, sonny, but I was waiting for the bus across the street.”

Rescue was the phrase used to move children from NYC to the Midwest in the 1920s. Rescue is the word used by those who buy and sell embryos. Rescuing a child through adoption is most often used in international adoption. Madonna’s well-publicized adoption is a case in point.

According to the pop star, she rescued a very ill child who may have otherwise perished, claiming on *The Oprah Winfrey Show*, he had at thirteen months survived malaria and tuberculosis. His father confirms that that he brought his son to the orphanage because he was unable to care for the sick child after the child’s mother died.

The father, Yohane, reports: “He was one month and seven days old. The orphanage made me sign a letter to show that I was handing him over to their charge, but I suppose deep in my heart I always imagined that when he was better, or I had got another wife, I would go and take him back. I did not think anyone would want to take him away.”

Madonna claimed she was told the boy was abandoned. BBC news reported that she was told no one visited David and that Yohane had remarried and gotten on with his life, despite reports that Yohane visited his son regularly, cycling the twenty-five miles to the orphanage. “I would bring him food from my garden, then sit and play with him for a while. I wanted him to know that I was his father, that I love him very much. He is my only child still living and I think of him as a gift

from God. He is also the best memory I have left of my wife.”⁴⁷ Yohane told reporters he was surprised and bewildered, but accepted the adoption of his son by what he was told was “a very nice Christian lady.”

Did the orphanage lie to make money it desperately needed by allowing David’s adoption? Did the father lie about his visits? Did Madonna hear what she wanted to hear? The Centre for Human Rights and Rehabilitation in Malawi expressed concern about the speed and secrecy of the interim adoption and that Yohane did not fully understand that he lost totally custody of his son. Most of all, they were concerned that the eighteen-month required stay in Malawi was not required for Madonna.

Malawians take seriously African proverb that “it takes a village to raise a child.” The boy’s uncle and other family members protested David being taken out of the country by a “rich white donor.” The uncle wanted to know how the family would benefit if the adoption went through. “We have seen other parents at the mission who have had their children adopted still living in their poverty. “They have not seen their children—all they see is pictures sent to them. We don’t want that to happen to this family,” he said. In accepting the foreign adoption of his child, his family and village still hope for his return to his culture.

Karen Finley wrote in *The Huffington Post* of Madonna’s adoption, “Imagine if Madonna’s father could not have supported his children after the death of the mother? And a wealthy African family appeared in Detroit with entourage and took away little five-year-old Ciccone to adopt? Americans, white Americans would go nuts.... This Malawi child is leaving his heritage, his people, his language, his family. Yes, he is poor. But now he is also impoverished.... Sounds like colonialism to me.... The image of a white, powerful, rich woman and her entourage landing in Africa and selecting a

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black boy brings America’s history of slavery and the middle passage to mind.”⁴⁸

Poet Lemn Sissay, adopted by a Caucasian British family from his native Ethiopia, does not mince words about his own experience: “When somebody takes a child from their native culture that is in itself an act of aggression.” He describes his life as “a bit like being an experiment. Like anyone looking back would feel about growing up in an alien environment—one which treated them as an alien....”

“Don’t tell me that you’re adopting a child to give them a better life. And that your view of other cultures and how they may be poor is your view; it says more about you than the place you’re looking to adopt from.”

Myths live deep in our psyches; they penetrate the unconscious, guiding behavior, motivating action. Myths provide a model of behavior, establish motivation, and stimulate the development of self-generated rules.⁴⁹ Adoption myths like “clean slate” and “love conquers all” are the cornerstones of adoption and form adoption policy and law.

The ultimate myth of mothers who surrender is that they are promised anonymity from their own children. The promise of confidentiality can be summed up in three words: it doesn’t exist. (See Chapter 7, “A Promise or a Lie?”)

Time-Honored Tales

While new myths have been created to rationalize adoption as it is currently practiced, there are adoption stories that have stood the test of time that can also guide us toward truth and integrity in adoption.

Moses’ mother, Jocabed, faced with the government-ordered killing of all Hebrew baby boys, hid her infant son for three months, hoping for a miracle. Abandon-

ment was a last resort, and done only to spare the life of her son. Moses' mother and sister watched as he floated out of sight. His sister then convinced the Pharaoh's daughter, who found the baby, to let her choose a wet nurse so she could choose Jocabed, creating a clandestinely open adoption.

Adopted and cared for, Moses knew enough information about his background and roots to have an appreciation for his cultural heritage. "Moses, when he had grown up, refused to be known as the son of Pharaoh's daughter" (Hebrews 11:24). He returned to his birth family and used the influence of the Pharaoh to become a liaison between his own people, the Hebrews, and his adopted people, the Egyptians. He maintained an identity with his genetic ancestry and led the people of his birth out of years of bondage and oppression into freedom.

The prophet Isaiah (49:15) also affirms the bond of a mother to the child she bore stating, "So the Lord answers, 'Can a woman forget her own child that she should not have compassion on the son of her womb?'"

In the book of Samuel, Hannah, an infertile woman, was desperate for a child and prayed to God. A priest, learning the nature of her request, prayed that the God of Israel would grant her wish. She promised that the child she would bear would be dedicated in service to the Lord. When the child was weaned, she brought him to the priest and placed him in his care for a lifetime of service in the temple. The scriptures mention that after placement of the child, Hannah "made [Samuel] a little coat and brought it to him from year to year."

Hannah, knew where the child was and to whom he had been given. Samuel grew up to become a mighty prophet and leader for the nation of Israel.

Queen Esther was an orphan, adopted by her cousin Mordecai. "Esther had kept secret her family background and nationality just as Mordecai had told her to do, for she continued to follow Mordecai's instructions

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as she had done when he was bringing her up” (Esther 2:19-20). Their cooperation while Esther was in the king’s favor saved the Jewish nation.

All these early stories stress the raising of another’s child without the need to conceal the truth of their origins. All of these situations would be called guardianship, long-term foster care, or open adoption by today’s definition. They also tell us that children need only be separated from their families of birth to save their life, as with Moses, or when orphaned like Esther.

One of the most famous biblical tales is of two mothers who came to King Solomon claiming one child.

This parable has been used against mothers and expectant mothers to persuade them to let go and give their child to others. But, the wise king, in deciding custody of the child never asked which of the mothers had more advantages. He never asked their marital status, nor questioned their fitness, or who was more “desperate” for this child, because his decision had nothing to do with the two women at all, but only what was best for the child.

The story makes the very clear point that “real” mothers are those who would cause no harm to a child. This includes not tearing a child from his family of origins unless absolutely necessary for his protection.

Chapter III: **Relating Respectfully**



*But if thought corrupts language,
language can also corrupt thought.*

George Orwell, 1984



Words are powerful. Politicians, advertising agencies, and grassroots activists are well aware of the power of language and semantics. Whether being aware of the negative power of words is being sensitive or employing common courtesy, or being politically correct, we no longer refer to children as “legitimate” or as “illegitimate.” Other word usage falls into the category of newspeak. Selling sperm and eggs are called “donations” while buying an embryo is called “embryo adoption.”

The term “birthmother” is controversial. In the late 1970s, Lee Campbell, founder and first president of Concerned United Birthparents (CUB), popularized the term in preference to “biological mother,” which is offensive, as it reduces mothers to in-cubators. Campbell chose it as one word, like “grandmother” and because it expresses the primal connection between mothers and the children they are no longer parenting, without being as cold and clinical as the word “biological.” Many who relinquished children in the past to closed adoptions have accepted the sad reality that their relation to their children has been denied and are proud that they are related to their children by birth.

There is, however, opposition among some mothers who have surrendered. Expressing a need for self-identification, they see “birthmother” as equally degrading as “biological” mother, as both reduce mothers to breeders or “birthers.” While many still identify themselves as “birthmother,” others feel very strongly that the term diminishes their role, dehumanizes them, and contributes to the exploitation of mothers.

These mothers prefer to be called, and advocate the use of, “original mother,” “first mother,” “natural mother,” “life mother,” or just “mother,” leaving the prefix for those who adopt. This use of a parental prefix would follow the existing model of a parent who loses custody in divorce yet remains the child’s parent, even if the child has a step-parent.

Adoption creates a “limbo loss.” Thus, some mothers who have surrendered describe themselves as “mothers of loss,” although this seems to contradict the desire to be identified as “mother” with no descriptor and remain the mother of their child regardless of the adoption. In some ways, such a loss is more difficult to deal with than the finality of death, although it is unfair to compare the two. Mothers, such as myself, however, who have experienced the loss of their child through adoption, and then again through death, have an additional layer of shame, guilt, secrecy, and lack of support. Death ends any hope for healing through reunification.

One mother who lost her son to adoption in 1979 and then lost him again to death at twenty-seven years of age said: “In mourning his loss, I’ve been struck with how different this grief is than what I’ve experienced before. It often feels more like I’m outside of it looking in, whereas in the past I was more inside of it and underneath it....Then there was the overwhelming and agonizing grief I experienced after fully, consciously realizing my loss, and in finding out how much he suffered in his life, emotionally speaking...”¹

“With regard to the term ‘birthmother,’” Robinson says, “the situation in Australia is similar to that in the U.S., in that there are some groups that place a great deal of emphasis on terminology....I have never felt comfortable with the term and have never used it....In Australia, ‘natural mother’ is probably accepted by most (although not all); ‘mothers who lost children to adoption’ is fairly common; and ‘mothers’ can be distinguished from ‘adoptive mothers.’”

“Sadly, mothers who have lost children to adoption and have been marginalised by society are now being marginalised by other mothers because of those choices. Mothers have become very much a divided camp, which is sad as, of course, it dilutes our power.”²

Madelyn Freundlich, attorney and author of *The Impact of Adoption on Members of the Triad*, likewise notes: “I’ve been in children’s welfare a long time and I’ve never seen this level of volatility in other issues. Feelings run very high.”³ The issue is being hotly debated, as I write, not unlike the debates within the civil rights movement over the use of the terms “Black” or “African American” once were. Feminists likewise had their internal debates with some preferring to use “wo-myn” or “womin” instead of woman or women. In all of these instances, there were others who saw debates about semantics as a distraction from what they considered more important goals.

In view of these different preferences, however, it is best to ask what a mother prefers to be called, or to call her a mother to be safe. “Birthmother” is the term currently used in the literature, policies, and legislation regarding adoption in America. I have limited the use of the term to quotations containing the word, and for those who prefer to be identified that way.

There are also different preferences among mothers with regard to the terms used to describe their experience. Before mothers spoke out on their own behalf,

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their experience was often defined as “giving up” a child for adoption. Many adoption practitioners like to use terms such as “make an adoption plan” or describe adoption as a “choice.” These terms can be particularly offensive to mothers who felt they had far less control, were pressured, or simply were offered no alternatives or resources. Even under the best of circumstances, women do not “plan” or “choose” to become pregnant in order to relinquish their child.

Some mothers prefer to describe their children as being “lost to adoption.” This describes accurately the loss of the ability to parent, raise, nurture, and see their child for most, or possibly all, of the child’s life. It requires grief work and mourning because the loss can never be replaced, even if the adoption is open or there is a subsequent reunion of mother and (adult) child.

Mother’s use words that best describe their experience. Brenda Romanchik, mother of a child in an open adoption and author, says that she “entrusted” her child to another’s care. Other mothers describe their child as having been “taken.” Indeed, if adoption means “to take as one’s own,” then their children were taken from them, either literally by court order, or through coercion. Still others feel that their children were “stolen” or “kidnapped.”

Joss Shawyer’s article, “The Perpetrators of Adoption Crime” states: “Adoption is the only kidnapping in the law books where the perpetrators actually get to keep the ransom. The only way for the mother to protect herself and her baby from the threats of these kidnappers, is to surrender it to them. Guns are not needed—fear of the future is the main weapon used in this crime. It’s ridiculously easy to distress and confuse any new mother suffering from an imbalance of hormones following a birth. Like taking candy off a baby, or taking a baby off your victim once you have her vulnerable, confused, depressed, and also desperate for your approval. In rape

literature, this is known as ‘dehumanizing’ your victim.”⁴

In some cases, mothers have been drugged and even killed, and their children kidnapped. More often, there is pressure and coercion and a denial of best practices that leads to the signing of surrender. What may clearly “feel” like a violation may not fall under the legal guideline of a crime.

“[S]ome mothers feel that they were not treated fairly when their children were adopted,” notes Robinson. “I think that many of us were so traumatized by what was going on, that it would be very difficult now for us to be sure of what transpired at that time. Many of us were so anxious and distressed, that it would have been difficult for us to comprehend and absorb what was being said to us. Also, many mothers have blocked out details of their experiences over the years in order to protect themselves.”⁵

As of this writing, I am most comfortable with, and prefer using, the word “surrender.” Surrender is the legal term for the loss of the right to parent one’s child; to raise, nurture, and see the child for most, or possibly all, of the child’s life. In addition to being a legally accepted and understood term, “surrender” also describes a giving up, resigning, waving a white flag, being defeated, beaten down, giving in. To surrender is to relinquish possession or control to another under duress.

It is important for members of the adoption triad to be respectful and also to try to maintain an understanding that each of them may use different words to describe their feelings. What may feel to one like the theft of their child, will not likely feel likewise to the recipient of that child, or the child, who may also be very uncomfortable dealing with his mother’s feelings of loss. Just as mothers can be hurt by thoughtlessness, so too can hurt be caused to others by the expression of

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strong negative feelings. Sensitivity for feelings and respect is a two-way street.

There are some rules of respectful language about which there is no difference of opinion. It is incorrect and insulting to refer to an adult who was adopted as an “adopted child,” although the press and others often do.⁶ The correct terminology is “adopted adults,” “adoptees,” or “adults who were adopted as children.”

An expectant mother is not a “birthmother” and should *never* be referred to as such. Using a term for something that has not yet occurred is incorrect and imposes expectations and pressure. Robinson, comparing U.S. and Australian adoption practices, states: “I have heard [birthmother] used in North America to describe an expectant mother. I have even heard the term ‘birthmother-to-be’ used to describe a pregnant woman. This sinister use of the term ‘birthmother,’ before the birth has even taken place, implies that the separation of mother and child is a foregone conclusion.”⁷

Because the term “birthmother” describes the mother of a child who has been placed for adoption, it is also incorrect and very condescending for adoptive parents to refer to their child’s mother as “our birthmother.”

Words used to describe each mother’s experience are personal and true for her. Respect for each mother’s experience is paramount. There is no one-size-fits all terminology.

Chapter IV: **Capitalism and Corruption**



*The first sign of corruption in a society that is still alive
is that the end justifies the means.*

Georges Bernanos, Author



Those of us raised in the United States believe that there is no problem that cannot be solved—for a price. Capitalism is as firmly embedded in our psyche as the Pledge of Allegiance. Do capitalism, profit, marketplace mentality, and supply and demand principles belong at the foundation of adoption? Or does money always lead to corruption?

“Adoption experts concur,” says Elizabeth Samuels, Associate Professor of Law, University of Baltimore, that we need to transform....adoption.... into a social service in which payments by adoptive parents play no part.”¹

Graham Wright, president of the California Association of Adoption Agencies, confirms: “In this marketplace, it’s a sad reality. Luck enters into it, but it’s like anything else in life: If you have enough money, you’ll get what you think you want.”²

Babb, who found a lack of consensus about what constitutes ethical practice in adoption, surveyed all fifty state licensors of public adoption agencies, as well as twenty-two child welfare organizations. “Most respon-

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dents agreed that adoption placement and service fees should not be charged.”³

Yet, we have “profit-based motivation in child placement [that] is … loathsome” and “largely driven by money.”⁴ Where does capitalism end and corruption begin?

In the summer of 2006, the Massachusetts state legislature quietly, according to the *Boston Globe*, passed a measure tucked into an economic development commerce bill. Reversing previous language that allowed only government and nonprofit agencies to handle the placement of children with adoptive families or in foster care, it allows for-profit adoption companies to compete. The change was reportedly pushed by a human services company, Massachusetts Mentor, with the help of well-connected lobbyists. The new law has sparked anger among child welfare advocates and nonprofit agencies, who say for-profit companies often introduce aggressive marketing and high adoption placement fees. They also oppose the for-profit firms because they are not subject to the same public disclosure requirements as nonprofit agencies.⁵

Massachusetts Mentor was the subcontractor that hired a foster mother who was later indicted for second-degree murder in the death of four-year-old foster child, Dontel Jeffers. The company was cited by the state last year for lax supervision of the foster mother, though company officials have said the case was an exception to their otherwise strong record of foster care.

The company, whose masthead includes numerous former State House officials and staff members, hired Lobbyist Joseph Ricca of Dewey Square Group—a former chief of staff in the Secretary of State’s office under Michael Connolly—to push for the change. They also hired Lobbyist Sean M. Morrissey, the former chief of staff for former House Speaker Thomas M. Finneran. Morrissey now works with the lobbying firm, Dutko Worldwide, with close ties to top Republicans.⁶

Bill Moyers’ “A Culture of Corruption” begins: “Money is choking our democracy to death. Our elections are bought out from under us and our public officials are doing the bidding of mercenaries. So powerful is the hold of wealth on politics that we cannot say America is working for all Americans. The majority may support such broad social goals as affordable medical coverage for all, decent wages for working people, safe working conditions, a secure retirement, and clean air and water, but there is no government ‘of, by, and for the people’ to deliver on those aspirations.”

“A Culture of Corruption” could well have been the title of this book. Replace “democracy” with “adoption,” and “elections” with “children” and it could not be clearer: Money is choking adoption to death. Baby brokers and for-profit agencies are mercenaries. The majority of Americans are “pro-adoption,” but children are being bought and sold and adoption is not working for those it is intended to serve.

Adoption, like any business, *can* be fair and ethical. Realtors must complete ethics training and are bound by an eleven-page National Realtor Code of Ethics and Standards. Businesses from restaurants to nail salons follow health codes to protect the clientele they serve. They are regulated, subject to inspections, warnings, and can be closed for violation of codes.

Yet, in adoption, “[p]rofessionals have yet to develop uniform ethical standards... or to make meaningful attempts to monitor their own profession,” says Babb.⁷ “In other professions and occupations, licensing or certification in a specialty must be earned before an individual can offer expert services in an area. The certified manicurist may not give facials; the certified hair stylist may not offer manicures Yet...individuals with professions as different as social work and law, marriage and family therapy, and

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medicine may call themselves ‘adoption professionals.’”⁸

Babb continues: “There remains no national professional organization for adoption specialists, no professional recognition of adoption practice as a specialty of any discipline, no established education and training requirements, and no regular professional meetings and forums for adoption ‘professionals.’”⁹

In 1998, Laura Mansnerus, reporting for the *New York Times*, said: “This is the essence of demand: unhappily infertile couples competing for a smaller and smaller supply of white, American-born infants. It is an imbalance that professionals in the adoption world are calling a crisis, allowing money to play a defining role in determining who will succeed in this desperate quest for that which cannot be legally bought or sold.”¹⁰

Reverend Ken Hutcherson of the Antioch Bible Church is among those concerned with racial issues in private adoption, questioning the difference between those who “sell by supply and demand” and slavery. Hutcherson says, “When a couple seeking to adopt a white baby is charged \$35,000 and a couple seeking a black baby is charged \$4,000,” the image that comes to mind is of “a practice that was outlawed in America nearly one hundred and fifty years ago—the buying and selling of human beings.”¹¹

Babb concurs: “In a field so often driven by commerce rather than caring, it seems that the least ‘valuable’ children are reserved for the least moneyed prospective adopters to the possible detriment of both.... Money has become the critical variable for determining who gets a child.... Higher fees continue to be justified for the adoptions of children in high demand, while lower fees and even subsidized adoptions continue to be the norm in adoptions of children who are in low demand.”¹² Solinger’s *Beggars and Choosers: How the Politics of Choice Shapes Adoption* explores the racist

aspects of adoption as did her previous book, *Wake up Little Susie: Single Pregnancy and Race Before Roe v. Wade*.

Actress Angelina Jolie's public announcement that she planned to adopt a third child shortly after giving birth stirred a great deal of media attention. In July 2006, an *LA Times* article by Leslie Gornstein, "How to Shop for Kids the Brangelina Way," was met with displeasure from adoptive parents. Using data from Children's Hope International, U.S. Department of State, and *Adoptive Families Magazine*, Gornstein presented the costs versus requirements (such as age, marital status, and length of stay in each country) facing Jolie as an unmarried adopter, and compared "likely possibilities" of countries from which she might consider adopting. The article was criticized for "trivializing" adoption on blogs and in *Adoptive Families Magazine*. Though upset with Gornstein's glib presentation, none of those who called it offensive refuted the facts or denied that those adopting do not weigh such pros and cons.

As Americans, we focus on entertainers; thus, Gornstein was not the first or only to comment on the surge of celebrity adoptions. Mainstream press has often described Angelina Jolie as "shopping" for a baby, as if a child is the next "keep up with Joneses" item de jour after the career, the house, and the cars. *Parade Magazine* replied to a reader asking why celebrities want to adopt kids from other countries instead of from here. The editors quipped 'foreign' kids are the "latest accessory." While big spenders shop for and buy babies at private "boutiques" that specialize in imports, others shop at levels they can afford.

The fact is that adoption is a business; babies are priced based on age, race, ethnicity, health, and physical ability. It all sounds vulgar because it is. It is perhaps embarrassing to have these truths exposed be-

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cause of the popularity of the adopter, but this is the truth of adoption today.

Neither is it glamorous or charitable that Lauryn Galindo, who helped Jolie adopt her Cambodian son, Maddox, pleaded guilty to visa fraud and money laundering as part of a ring that paid poor Cambodian women as little as \$100 or less for their children. The agency which handled hundreds of such adoptions charged fees of \$10,000.¹³

Angelina Jolie was reportedly shocked to hear that Maddox might not be an orphan whose mother had died, but rather may have been sold by his birth mother in a desperate attempt to escape a poverty-stricken life. The FBI closed down Seattle International Adoptions Inc., used by Jolie to adopt Maddox, after its former owner Lynn Devin pleaded guilty to false claims that some children the agency handled were orphans.

In the end, the father of the child Madonna took from Malawi did not want the adoption overturned and his son returned to a poverty-stricken life. While he told a very different account than Madonna, money—and lack thereof—were major factors in both the relinquishment and the adoption. The Diva said she did nothing anyone else could not have done. Despite overriding the eighteen-months-in-country fostering period, and having her new son escorted home in a private jet, she is right. Taking children from their culture, without concern for their families' needs, is done all the time—not just by the rich and famous.

Debora L. Spar, author of *The Baby Business*, is a mother of three. She adopted her youngest child, a six-year-old girl from Russia, because she wanted a little girl. She found “the idea of trying adoption... very pow-

erful.”¹⁴ Spangler Family Professor of Business Administration at Harvard Business School, Spar’s book on the “commerce of conception” includes a chapter on adoption, positioning it squarely as the last step in reproductive technology—merely another way to “conceive” a child—not as a social need to provide homes for children.

Indeed, the fertility support group Resolve has long considered adoption the final step for those wanting to parent. Since other forms of assisted conception have a price, when we view adoption from the plight of the infertile, fees in adoption become an acceptable, and for the most part unquestioned, expense. And thus, a free-trade marketplace is established and a profit available to anyone who sets up a business establishment called an adoption agency.

Everything that Spar observes in the reproductive technology sector exists in adoption today: “private rules reign. The fertility centers themselves set the rules that guide their conduct.... [and] are free to operate and compete. There are no constraints on their advertising (other than basic prohibitions on fraud or misrepresentation) or on tactics for attracting clientele.” Adoption is likewise self-regulated, except for standard business procedures and fees.

Seeking to increase accountability of agencies responsible for child welfare, legislators have introduced bills requiring public child welfare agencies to become nationally accredited. Illinois, Washington, and Kentucky, have passed such legislation, while Texas, Pennsylvania, New Hampshire, and Connecticut are considering it.

However, these are public child welfare agencies, which in many states fall under the jurisdiction of Social Services or welfare. These agencies handle adoptions of children in foster care who are older and/or in sibling groups. The vast majority of infant adoptions, however,

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are handled by private agencies, and so are not covered by this legislation.

Other attempts have been made to curb abuses in adoption. In 1955 Senator Estes Kefauver led a U.S. congressional investigation into black market adoption as a result of Georgia Tann and the Tennessee Children's Home Society operation. Kefauver proposed legislation to criminalize commercial adoption operations placing children across state lines. It exempted licensed adoption agencies. The bill died in the House of Representatives, “in part because several influential representatives knew that their constituents preferred independent adoption”¹⁵ and because of pressure from the agencies that profited.

In the wake of a nationwide failure to regulate adoption, state regulations are “a complex patchwork of law and practice that involves payments of nearly \$2 billion annually in fees and expenses.”¹⁶

The new wave of private, commercial adoption agencies began in the late 1970s with Artie Elgart. Shortly after he and his wife adopted in 1978, Elgart says he began helping people he knew or heard of find babies to adopt by placing a small newspaper ad: “PREGNANT? Young couple wishes to adopt baby. Call Mary, 289-2229.”

The former car parts salesman, was keenly aware that the demand for adoption far outweighed the “supply” of sought-after infants, and turned it into a business opportunity. Aptly naming his adoption business The Golden Cradle, Elgart began procuring children for those who paid his fees. Elgart’s practices, which have since become accepted, if not commonplace, were called unconventional and disrespectful in the 1980s. CBS’ “60 Minutes” called Elgart “Mr. Stork” and his adoption practices “unorthodox.”

“Marketing came naturally to Arty Elgart,” writes Mansnerus.¹⁷ He “started a facilitation service.... [w]orking out of his auto parts warehouse.... By most accounts, including his own, no one had seen anything quite like it before.”¹⁸

The Golden Cradle advertised for expectant mothers on billboards, bus-stop benches, and fast-food tray liners throughout Pennsylvania. Having no education or background in social work or adoptions, Elgart eventually was forced to hire a social worker and move his business to Cherry Hill, N.J.

“Golden Cradle started something,” agrees Maxine Chalker, social worker and executive director of Adoptions from the Heart, in Wynnewood, Pa. When she started her agency in 1984, “in the phonebook there were maybe three ads under Adoption Services.” Following in Elgart’s tradition, Chalker’s agency advertises on bus shelters and in malls, and has tried radio and television, though the response was disappointing.

Chalker complained to Mansnerus: “It gets harder every year because of the competition....Now everybody thinks adoption is easy money, especially the attorneys....Now they’re hiring counselors to work in their offices, and setting up as agencies without being licensed.”

Adoptions from the Heart, which had seven offices in five states in 1998, also had an advertising budget of \$371,000, accounting for 16 percent of its total expenses. Chalker called the advertising budget “embarrassing,” saying: “It’s so much money, and that’s just to stay in business.”¹⁹

Mansnerus’ 1998 *New York Times* series on adoption concluded: “State-licensed adoption agencies, once strictly controlled, charitable, and paternalistic institutions, may be pained by the intrusion of commerce, but now they, too, advertise on bus shelters and billboards, and collect scrapbooks and videos from would-be parents to show to birth mothers. They mine connections

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with foreign orphanages. They do what they can do to increase their supply of children.”²⁰

The Corruption Continuum

Following the 1988 release of my first book, I was invited to participate in an episode of the Geraldo Rivera Show “Private Adoption: White Knights or Flesh Peddlers?” The program featured Rebekah Dulik, who at age 17, alone and pregnant, had been lured through an advertisement from her home in Pennsylvania to a Howard Johnson’s in Baton Rouge, Louisiana. The motel was filled with pregnant girls her age and younger; all were there to surrender their babies. Rebekah was asked if she wanted to stay and have another child to place for adoption. Rebekah’s parents reported her missing and Pennsylvania State Police tracked her to Baton Rouge. She was returned home before she gave birth.

Richard Gitelman, who operated National Adoption Counseling Services in Florida and Louisiana, was charged in the case.

Brenda Kelly, deputy assistant secretary of Louisiana’s Office of Human Development, reported that the overwhelming majority—90 percent—of newborn white babies adopted privately through Mr. Gitelman’s operation went to New York. She estimated that Gitelman had arranged 130 to 150 newborn adoptions in Louisiana from the fall of 1985 to January 1987.²¹ The only charges against Gitelman and his associate were brought by Pennsylvania for interfering with the custody of a minor.

New York does not keep detailed statistics on the number of private adoptions involving out-of-state placements. However, John E. Stupp, deputy counsel for the State Department of Social Services, said New York “get[s] more than the average number of children from Louisiana.” Louisiana, Pennsylvania, and Florida, which

investigated Gitelman's operation, consider such baby brokers "entrepreneurs who operate legally within a labyrinth of legal loopholes."²²

In 1987, "[e]xperts in the growing field of adoption sa[id] the case of Miss Dulik raises new questions about whether America's adoption system should be uniformly regulated by the Federal Government instead of the states."²³ Nearly two decades later we are no closer to seeing such regulations. Untrained adoption facilitators and adoption businesses continue to base their operations in states that permit them to operate. They transport expectant mothers across state lines to wherever lenient or nonexistent laws allow them to house expectant mothers and pay their expenses.

"Many people with a vested interest in the adoption industry have attempted to persuade policymakers and consumers that any effort to regulate adoption is tantamount to being anti-adoption," says Maureen Flatley, political consultant and media advisor specializing in child welfare and adoption. "However, it is impossible to quantify how many children have been deprived of families because we haven't. As we fail to take adequate regulatory responsibility for adoption, tens of thousands of children...will continue to languish around the world while the U.S. government remains confused about a task that should be crystal clear."²⁴

Operations exactly like Gitelman's still exist in Louisiana, perhaps with more care exercised not to recruit minors. Today, as in the 1980s, "[I]t is possible to find a birth mother anywhere in the country, send her to live in Louisiana, pay her expenses and fees to intermediaries, have her relinquish the child in Louisiana and finalize the adoption there, all while living elsewhere. And some couples who can afford it, most of them in the Northeast, do just that."²⁵

In 1996, Misty Smoot answered an ad recruiting expectant mothers for adoption of their children. Misty,

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her husband, and their two children were flown from Tennessee to Baton Rouge by Beacon House Adoption Services, Inc. The Smoots were put up in an apartment complex with other expectant mothers. When Misty gave birth to twins, she became concerned that Beacon House might double its profits by placing each of the twins in separate families. She decided to place her twins for adoption with an agency other than Beacon House.

Beacon House sued Smoot for airline tickets, housing, and other expenses. The lawsuit alleged breach of the contract that obligated the Smoots to repay expenses if they placed with an attorney or agency other than Beacon House.²⁶

Because many states allow payments of “expenses” in adoption, only charges of offenses *other than baby brokering* bring convictions. This was true of Dr. Cole in the 1940s, Gitelman in the 80s, and is still true today. In September 2002, there was an investigation into the Alamo Adoption Agency (AAA) of San Antonio’s illegal adoption network for smuggling pregnant Mexican women into the United States. Maria Dolores Bondoc of Laredo, Texas, was indicted on three counts of giving pregnant women a dangerous drug to induce labor. Bondoc agreed to plead no contest and accepted a plea agreement of eight years in prison without the chance to appeal.

In February 2006 Maxine Buckmeier, an attorney who represents adoptive parents, was found to have been bringing young, often homeless, pregnant women across state lines on her clients’ behalf.²⁷ Buckmeier set expectant mothers up in apartments paid for by prospective adopters, in an operation no different from those that had elicited concern in Louisiana.

Prospective adopters paid all expenses not covered by Medicare and food stamps. Buckmeier used her law

degree to navigate the law, having prospective adoptive parents purchase Wal-Mart debit cards and pay the rent to the apartment complex, so no cash was transferred directly from prospective adopters to expectant mothers.

As of this writing, no charges have been brought against Buckmeier who claims, “the women relocated to Sioux City sometimes plan[ned] to stay in Iowa after the birth and only leave if, and when, they choose.” But, according to reports, payments ended when an expectant mother “backs out of the plan.”

Christine Kilmer was one of two women who wound up in a homeless shelter in Iowa after being kicked out of the apartment Buckmeier provided. Kilmer responded to an ad for Laurie Aragon’s Adoption Insight in a free shoppers’ guide in Florida, where she was living, and was relocated to the Sioux City apartment complex.

When Kilmer gave birth, she decided to parent her daughter. Kilmer claims that Buckmeier called every day, urging her to change her mind. Four days after giving birth, Kilmer was told to vacate her apartment. The prospective adopters confirmed that she had been told that they would no longer pay her expenses.

Almost immediately, the Iowa Department of Human Services (DHS) stopped Kilmer from taking her newborn out of the hospital. A few days later, DHS took custody of Kilmer’s 4-year-old daughter who had been living with her in the homeless shelter. According to a transcript of the hearing obtained by the *Quad City Times*’ Des Moines Bureau, a nurse in the hospital where Kilmer delivered testified that she had called DHS because she “had gotten a call from Maxine Buckmeier to say that (Kilmer) had chosen to keep the baby, which is her right, but she wanted to let us know that she was homeless.”

The nurse testified that Buckmeier’s phone call led her to speak to Kilmer, a conversation that heightened the nurse’s concerns because Kilmer was talking about

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driving her family across the country to stay with relatives. The nurse then called DHS.

Hospital employees claim that Buckmeier, who did not testify at the hearing, told them that the adoption was off and simply answered their questions. Buckmeier denies playing a role in the DHS referral.²⁸ “The social workers asked me, ‘What is her plan?’ And I said, ‘You’ll have to ask Chris.’ Then the social workers asked, ‘Will she go back to the same apartment?’ and I said, ‘Well, she’ll have to pay the rent. That was it,’” Buckmeier said.

As of this writing, both of Kilmer’s children remain in foster care, seemingly for their mother’s “offense” of considering, and then rejecting adoption, and/or for being poor and homeless. Patsy Scallions, a director at the Sioux City Gospel Mission Women’s and Children’s Shelter, said she knows of at least three women from the Sioux City apartment complex where Buckmeier houses pregnant women who “wound up on the streets after deciding not to proceed with adoptions.” At least two of the women, she said, wound up losing their babies anyway, because they were homeless.²⁹

Adoption Insight (also operating as Adoption Wise), which placed the ad that Kilmer responded to, is owned and operated by Laurie Aragon. Aragon is an adoptive parent and certified nursing assistant who opened Adoption Wise as a nonprofit adoption consultancy in 1999, but changed it to a for-profit within six months.

Aragon, a self-proclaimed “adoption facilitator,” has headquarters in Holtsville, California, a state that allows adoption facilitators to operate without any restrictions. However, she advertises in Florida, soliciting expectant mothers, (where Kilmer saw her ad) and sends mothers to Iowa, one of a dozen states that has no regulations limiting adoption advertising or the use of facilitators. Fraud complaints in California are filed with the district attorney in the company’s home county. But conveniently for Aragon, in rural counties, such as the one in

which Holtville is located, the district attorney only intervenes after the Chamber of Commerce or Better Business Bureau have said that a complaint has merit.

Gail Betts, an associate of Aragon's Adoption Insight, speaking on their behalf, told *The [Iowa] Register*: Some things are "trade secrets. I'm not going to tell you everything we do. You are not a paying customer." She said services are provided by the agency based on what individual clients are willing to pay.³⁰

"We have no authority and no responsibility over [adoption facilitators] or their activities whatsoever," said Michael Weston, of California Department of Social Services, which licenses adoption agencies.

A small percentage of unregulated adoption facilitators, consultants, intermediaries, and agents are charged with civil or criminal violations. Many, however, indulge in practices that are contrary to those recommended by reputable attorneys, adoption experts, and the Child Welfare League of America's (CWLA) *Standards of Excellence for Adoption Services*. For instance, moving pregnant women for the purpose of placing their child when born violates ethical principles of social work.

Defending relocation is David Keene Leavitt, director of the Adoption Law Center of Beverly Hills in California, who, like Buckmeier, maintains furnished apartments for mothers. "Occasionally we have a girl who wants to leave home. She doesn't want the folks at home to know what's going on."

Leavitt also relocates women to get them out of states in which there are more restrictions on adoption practices. "If you have a girl in Ohio and she has no money; she needs food; she needs her rent paid; you can't do it. So you get her out of there and bring her to a state where this is proper."

Is it ever "proper" in any state or just not outlawed? Leavitt's argument ignores the fact that women can ob-

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tain food stamps and emergency housing from the states in which they reside.

Adam Pertman, adoptive father, author of *Adoption Nation*, and executive director of the Evan B. Donaldson Adoption Institute,³¹ says such practices “turn real, live flesh-and-blood women into baby-making machines who are supposed to give us their products and go away. Well, that’s not acceptable on a human level... and not acceptable on a practical level.”

The former president of the American Academy of Adoption Attorneys, Mark McDermott of Maryland, said that relocation should be rare. He said the practice is most common for “entrepreneurial and aggressive” service providers. Another former president of the adoption attorneys group, Indiana-based Steve Kirsh, said relocation is a bad idea, even if the woman is homeless. “My experience is that a homeless birth mom is almost never going to place a child for adoption.”

Patricia Johnston, an Indiana-based adoption educator and author, also is sharply critical of relocating expectant mothers for the purpose of adoption, which she said is only done by a small number of attorneys and facilitators. “For anyone to say the relocation is the birth mothers’ choice is exaggerating the issue. They’re dealing with a client in crisis, who has little idea how adoption works and is completely dependent on the professionals they work with.”

Gearino, the reporter who brought Buckmeier’s baby mill to light, believes the problem is that “the adoption of children is changing faster than... regulators can follow.” He goes on to state that “this rapid shift [is] fueled by the Internet and national advertising.”

Baby mills and scams existed long before the Internet increased their visibility. Gloria Hochman of the National Adoption Center says: “The Internet is not the culprit. Bidding wars have existed before. But the Internet adds a dimension to it... reach[ing] a lot of people

very quickly.”³² Legislation has done virtually nothing to stop or even control their operation

Facilitating Adoption?

In 1993 there were an estimated six million prospective adopters are vying to be one of the sixty thousand who will be successful.³³ Competition to be successful the one in a hundred is fierce and the first step many take is paying someone to locate a pregnant woman who might yield a baby to adopt. Their desperation has led to what some call a “cottage industry.”

Ruth-Arlene Howe of Boston College Law School found that “...the supply of Caucasian infants has not been able to meet the demand. This has created a business opportunity for those who can ‘supply’ babies. The desire for healthy infants has led many adults, frustrated by long agency waiting lists, to use private ‘businesses’ to obtain infants here and abroad.”³⁴

Babb states: “...anyone with enough money to advertise him- or herself as an independent adoption facilitator can claim expertise and get into the business of moving children from family to family.”³⁵

Thirty-five states prohibit adoption facilitators and allow only licensed agencies or attorneys to charge any fee in connection with an adoption. Nine states permit adoption facilitators, and six states have no statutes or case law either permitting or prohibiting facilitators (see Appendix). California expressly sanctions them and is thus a haven for adoption facilitators who, with no background or education in the field, advertise, solicit, and arrange adoptions.

Sarah Jensen of Adoption Center of San Diego, for instance, went from selling timeshares one day to arranging adoptions the next. Jensen operates her business with sliding-scale fees, based on the couple’s income.

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The practice is illegal in Pennsylvania since the fees bear no relationship to the actual services provided. California has no such restrictions.

In the Eureka State, “anyone can call themselves a facilitator,” according to Susan Romer, a San Francisco adoption attorney. “Many of them work out of their homes with an 800 number....People who are looking to adopt are willing to pay the cost and take the chances.”³⁶

Randall B. Hicks, an adoption attorney in Riverside, California, and author of *Adopting in America*, said facilitators are “not licensed nor trained to do anything.”³⁷ Alex Valdez Jr., spokesman for the California Department of Social Services, said, “Essentially, [adoption facilitators] are required to have a business license, publish a list of their services, and [have a] \$10,000 bond before they hang a shingle.”³⁸

The *LA Times* reports that prospective adopters are paying untrained facilitators \$6,000 to \$20,000 often just to introduce them to an expectant mother who may or may not decide to surrender her child for adoption. If a match fails, a facilitator can bring the same birth mom to another couple and collect yet again.³⁹ Because it would be illegal to charge a fee for a baby, and because fifty to eighty percent of expectant mothers who consider adoption do not surrender, paying a fee to be matched leaves the door wide open for people to be bilked out of money.

The web site of Loretta Cooper, owner of HeartfeltAdoption.com says: “I require \$4,800 up front and a signed contract. In most occasions there will also be some pregnancy related support for each birthmother.” California, under fire from many adoption professionals and attorneys for its liberal laws regarding adoption facilitators, has as a result seen its share of litigation. A bill that would require facilitators to register with the state recently passed the California Senate and could be signed by the governor in 2006.

There are intermediaries who are paid to recruit pregnant women and/or interview and screen them. Prospective adopters want to know about numbers of sexual partners and drug use, for instance, but are not comfortable asking such questions themselves, according to Lil Snee, another California facilitator.⁴⁰

Others are paid to coach or advise adopters. Ellen Roseman is a former flight attendant and union negotiator whose “main job” as a California adoption facilitator “is coaching prospective adoptive parents.”⁴¹ Roseman acknowledges that “the adoption world is likely to be a place where the buyer must beware. “When you have a commodity that is so valuable like a baby,” Roseman continues, “I think, unfortunately, it invites practices that are not above board.”

Diane Hogan is the owner of Step-by-Step Adoption Consultants, an “educational services business offering support, referral, and guidance on adopting a child.”⁴²

“[A prospective adopter] need[s] to become a savvy adoption consumer... [and] understand the business of adoption.” To start the process, Hogan says, “adoptive-parents-to-be should envision the child they would like to see in their home. Focus on race, gender, and age of the child... [and] determine how long you want to wait to adopt and get your finances in order.”⁴³

The problem is not just those who identify themselves as adoption facilitators. Physicians, attorneys, and others arrange adoptions. "Professionals and organizations concerned with professional adoption practice have uniformly opposed the facilitation of adoption through intermediaries, such as medical doctors and attorneys, who are neither trained nor licensed to provide child placing services."⁴⁴ Yet, there is “no professional association or academics, no certification or licensing procedures, no professional recognition as adoption specialists, and no training or educational qualifications.”⁴⁵

Buying Babies: Lack of Regulations

David Liederman, director CWLA, said that only in a minority of cases does private adoption deteriorate to the level of baby selling, in which a fee is paid directly to the mother in exchange for a baby. He said that laws which allow adoptive parents to pay reasonable costs for the birth mother can become blurred in the eyes of couples who cannot conceive and are willing to “grasp at whatever they think will work and generally will pay a price for it.”⁴⁶

Despite a stringent prohibition on baby selling, “thousands of intermediaries can and do sell access to the young women who might relinquish babies,” reports Mansnerus. “This has left only the thinnest line between buying a child and buying adoption services that lead to a child.”⁴⁷

Buckmeier admits: “Based on my experience with parents who have adopted in California, or tried to, it’s carte blanche,” she said. “Adoptive parents can even buy a birthmother a new car, set up a trust fund, or pay for college.” Buckmeier said it can lead to a bidding war.⁴⁸

In May 2006, an Oklahoma State grand jury issued a report saying that adoption judges in Oklahoma County are so indifferent or grossly incompetent that mothers are allowed to sell children for cars, televisions, and vacations; and in one case, a couple adopting a child paid the utility and phone bills of the birth mother’s relatives. The grand jury “blasted” adoption judges in Oklahoma County and called for changes in adoption laws to protect children by defining allowable and reasonable expenses.⁴⁹

Spar’s *Baby Business*, includes a section, “Selling Souls or Saving Lives? Prospects for the Adoption Market,” in which she presents the argument:

If one looks at adoption by itself, it's tempting to say yes across the board, to say that money should never enter the relationship between parent and child.... If one sees adoption as part of a broader baby trade, however, such sweeping pronouncements are more difficult to make. Clearly profits are being made in other parts of the trade: in infertility treatments, in sperm sales, in surrogacy. By what logic can we argue that the Fertility Institute of Las Vegas can charge its clients \$44,800 for a gestational surrogate cycle, but Angel's Haven can't charge \$8,000 to place a war orphan from Ethiopia?⁵⁰

Spar adds: "Perhaps one can draw a hard and fast line at the child himself, distinguishing between the components of conception and the *product* of the conception. In other words, one can say that from the moment the child is born, he or she can no longer be traded or treated as part of a market transaction."⁵¹ Perhaps? **Adoption is not a reproductive technology. Its purpose is not to resolve infertility. Adoption is a social welfare system for the protection of already existing children who have two parents.**

David Plotz of the *Washington Post*, in his review of *The Baby Business*, observes: "Spar doesn't fixate on ethics."⁵² Instead, Spar's business mind equates the sale of sperm and eggs to car parts and a living human being to a completed automobile. She allows that to consider the child as a human being is "a legitimate position" but one that she immediately dismisses, stating that such a position "often runs contrary to the interests of the child at hand."

Spar concludes that if "money does not change hands," children will remain institutionalized. Yet, neither institutionalized nor home foster care is without costs, and legitimate, reasonable fees are charged for the adoption of children in state custody. More importantly, Spar's argument denies the fact that billions of dollars

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are changing hands in domestic infant adoption, and this does nothing to decrease the number of institutionalized children. It could in fact be argued that each person who pays fees to adopt privately represents one less possibility of a child in public care finding a home.

Maureen Flatley states: “[T]he challenge in politics is always to illustrate how disproportionately adoption businesses consume financial resources while failing to serve adequate numbers of children.”⁵³

Spar believes the only alternative to adoption as a business is to turn all adoption over to the government. She dismisses this as unacceptable. Yet, Samuels writes: “Some adoption professionals and observers argue that adoptions should be arranged, as they are in some other countries, only by public child welfare agencies or highly regulated nonprofit agencies.”⁵⁴

The Child Welfare League of America states: “Adoption as a child welfare service for children is best provided through an authorized public child welfare agency or voluntary, nonprofit adoption agency for those children who will not be raised by their birthparents and who can benefit from permanent family ties established through legal adoption.”

Gloria Hochman, spokeswoman for the National Adoption Center, which specializes in the placement of minority and special needs children, is unequivocal: “Either private adoptions should not be allowed anywhere or they should be regulated in all of the states.” She adds that states should require attorneys who arrange adoptions to “go through an accreditation process and require adoptive parents to go through a training process and learn about what it’s like to adopt a child.”⁵⁵

Ruth-Arlene Howe, Boston College Law School concurs: “Adoption should not be a private, for-profit business, but a specialized child welfare service provided by private, voluntary or public governmental agencies staffed by diverse and culturally competent professionals.”⁵⁶

Abby Lippman, in reviewing Spar's *Baby Business*, notes: "To avoid the worst hazards accruing to the most vulnerable and the most marginalized women—those who will provide, or help produce, the 'raw materials' of the 'goods' sought (happy, healthy children for others)—some international, or at least supranational, control is essential."⁵⁷

Every adoption agency and facilitator with a web site is a multi-state operator and operates internationally without any regulations similar to those for interstate commerce. This vast, unregulated marketplace is wide open to schemes like The Golden Link Foundation, Inc.⁵⁸ Posing as a charity for any mother (or pregnant woman) who "needs to put her life together," The Golden Link Foundation pays up to \$10,000 to mothers who surrender their babies to one of its agencies (Adoption World, Birth Hope Adoption Agency, and Easter House). None of these agencies has a physical address, just 800 numbers, and all are owned and operated, as is Golden Link Foundation, by Seymour Kurtz of Chicago.

Seymour Kurtz has been under investigation since the 1960s for baby brokering here and in Mexico. In 1980, Lynn McTaggart, author of *The Baby Brokers: The Marketing of White Babies in America* wrote: "Kurtz has found a way to circumvent the laws and regulations of the entire world." In 1985, Easter House, one of Kurtz's agencies, was charged with a dozen violations of state laws and regulations intended to protect children, mothers, and those who wanted to adopt. The licenses of Friends of Children and Birth Hope, two of his operations, were not renewed. Kutz's agencies have been denied licenses in Florida, New Jersey, and Connecticut; eleven other states have reports of misconduct or noncompliance.

Michele Galen, writing for the *National Law Journal*,⁵⁹ called Kurtz "the most controversial" of adoption attorneys who operate "where laws are cloudy and pro-

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fessional ethics are fuzzy.” Kurtz is described as “a charming yet litigious Chicago-based attorney who heads a multi-state adoption network attacked by regulators and prosecutors nationwide for alleged tax and licensing violations, excessive fees, and coercive adoption practices.” Galen continues: “Attorney Kurtz, to many experts, illustrates the [adoption] laws’ weaknesses.”

Lax laws and lenient punishments are no deterrent, however. Despite all of the criticism and charges against him and his agencies, Kurtz continues to operate, charging and collecting fees for adoption, and luring expectant mothers with support money. Kurtz’s web site, as of this writing, is still offering money for babies to be placed for adoption.

Chapter V: International Intrigue



*In families that are forged between
the first and third worlds,
it is consistently the parents who come
from the wealthier states
and the children who migrate out of poverty.
It is the poor states that produce the children
and the rich that consume them.
In this process, poor parents are left behind, serving
only as the initial fabricators
of other people's children.*

Debora L. Spar, Harvard School of Business¹



International adoptions have been increasing steadily as the “supply” of domestic infants placed for adoption have dwindled.² Approximately thirteen percent of adoptions are international, estimated from the number of orphan visas issued. It is estimated that one-fifth to one-sixth of all non-related adoptions in the U.S. are of foreign-born children.

The United States has adopted more children from abroad than any other country. The number of foreign children adopted by U.S. parents nearly doubled during the 1990s, reaching twenty thousand annually.

Poverty and social upheaval have been factors in the adoption of children from Latin America and Eastern Europe. Americans began adopting children from other countries in substantial numbers after World War II. Many of the adopted children were European and Japa-

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nese war orphans. Additional adoptions followed after the civil war in Greece (1946–49), the Korean War (1950–53), and the war in Vietnam (1954–1975). China's one child policy contributed to abandonment of female infants and overcrowded orphanages, encouraging the government to facilitate international adoptions.

More than half of internationally adopted children (between 1971 and 2001) came from Asia. Since the 1990s, China and Russia have become the largest donors of children for international adoption. “Eastern European babies are classified as white and that makes them more desirable,” according to Riitta Högbacka, University of Helsinki, Finland, reporting on the global market for adoption. At the same time, the number of black, American-born babies adopted by overseas families has increased significantly in recent years, with black babies being placed with Canadian couples more than ever before.

Susan Soon-Keum Cox, director of public policy at Holt International Children’s Services, reports that in international adoption there is a reverse of the supply and demand ratio in domestic adoptions.

“It feels harsh to use concepts like supply and demand when talking about children and obviously it’s wrong to say that international adoption is just a trade in children,” says Högbacka. “But if we look at the direction of this human flow—which countries are sending children, which countries are receiving and who is doing the adopting—then it is very clear. It goes from the South to the North and from the East to the West. The recipients are always the richer countries in North America, Europe, and Australia.”

“Thinking of adoption in economic terms is an uncomfortable reality. There has been a deterioration of the constraints once put in place to protect members of the triad from exploitation, with market factors such as inflated inventories, scarce commodities, demographic

trends in the marketplace, products in oversupply, and the principles of supply and demand affecting adoption services.”³

“Some families start looking for the cheapest, the fastest” way to adopt and believe it might lie in adopting internationally, according to Barbara Irvin, state director of Family Adoption Consultations, Ohio.⁴ This shift is cause for concern for many in the field. According to Irvin, “There are some real tensions now between the child focus and the consumer orientation, the human services model and the market forces.”⁵

There are reasons, other than cost factors, that attract prospective parents to international adoption. Georgia Deoudes, director of policy for the Evan B. Donaldson Adoption Institute, says a more likely motivation is that international standards are in some ways more lenient. Older couples and single adults who might be rejected by adoption agencies are more likely to be accepted by adoption agencies in foreign countries.

Additionally, there appears to be a more clear-cut termination of the birthparents’ rights with international adoption that appeals to many prospective parents.⁶ Dawn Friedman, an adoptive mother in an open adoption, says: “Other adoptive parents we knew chose to go abroad in part because they were alarmed by the trend toward increasing openness in domestic infant adoptions.”⁷

Högbacka observes: “In the West, it may be easy to think that the mothers in other countries don’t worry too much about losing a child or two because there is always another pregnancy. It is also a defense mechanism against the thought that your child’s biological parents are still alive somewhere else.”

Adopting internationally gives the feeling of adopting a child with no parents because these parents are often “cut out of the picture completely,” says Högbacka.

“Many people longing to be parents decide against adopting a ward of the Children’s Aid Society once they learn of the child’s background,” according to JoAnne Conlin, an adoption licensee in Ottawa, Canada. “So they choose to go the international route and they get absolutely no background, and in many cases it can be much worse than the type of background you’d get here.”⁸ The growth of foreign adoption has in fact prevented some orphans from finding homes in their own countries. Yet, as many as 80 percent of those who adopt internationally have no idea any health or behavior problems existed until they got home.

Janice G. Raymond is one of many feminists and scholars who view international adoption as trafficking in both women and children, stating that it “encourages *throwaway women* who are discarded after fulfilling their breeding role.”⁹ “But giving a child away to unknown people is never an easy option.”¹⁰

Nor is it easy for a child to be separated from his or her culture. Judith D. Jackson, president of the National Association of Black Social Workers, said in 2005 that she still supports the concept of the organization’s statement in 1972, calling the placement of children outside their ethnic heritage “cultural genocide.”¹¹ “Imagine yourself and how comfortable you’d be being permanently removed to another country and leaving everything behind: the sights, the smells, the sounds, the language, the food, everyone you know,” according to Roberta Galbraith, executive director of the adoption agency Canadian Advocates for the Adoption of Children, or CAFAC.

In some countries, adoption is used as a cover for human organ trafficking or child pornography because adoption agencies receive little or no information on the children once they go abroad.¹²

As program director of International Social Service, Chantal Saclier is responsible for the United Kingdom's ISS Resource Centre on the Protection of Children in Adoption. Saclier finds that although inter-country adoption is intended to find stable homes for children who do not have the opportunity for a loving family environment, many of the children being adopted have a birth family that could have been preserved. Factors such as pressure from wealthy adoptive families, and the selfishness and greed of officials, have created a situation in which economically disadvantaged children are exploited and sold.¹³

Additionally, Saclier reports that in international adoption, as in domestic, institutionalized children who are most in need of loving families are not being adopted because they do not meet the families' desires for young and healthy children, and because they have not been relinquished by their parents.¹⁴

"The most vulnerable children are not the group most in demand for international adoption. Demand is focused on quite a small group of under three-year-olds, where the number of potential parents far exceeds the supply of children," according to Högbacka.

International adoption is often very corrupt. "Now, with additional programs opening up in Russia and China in particular, folks are seeing it as an entrepreneurial venture," according to Debra Harder, network director for Adoptive Families of America.

As abuses are exposed, countries are restricting adoption of their children to foreign lands. According to Ethica, a nonprofit adoption advocacy organization,¹⁵ thirteen countries have suspended or ended their adoption programs in the past fifteen years.¹⁶ Four more countries have temporarily stopped adoptions to investigate allegations of corruption or child trafficking. The United States government recognizes these concerns, and is aware that international adoption provides an in-

centive for child trafficking. It is for these reasons that the U.S. strengthened its anti-trafficking efforts, with the passage of the 2005 Trafficking Victim Protection Reauthorization Act. Yet individual desire to “rescue” a child is furthered by ethnocentrism and a national policy of spreading democracy and the American way of life to the world.

Bulgaria

In 2002, Americans adopted two hundred and sixty children from Bulgaria. In 2003 Bulgaria banned the adoption of children under the age of one year by foreigners.

Yet, in 2004 the Bulgarian police discovered thirteen cases of illegal adoption and in 2006, authorities broke up a Bulgarian ring that was bringing pregnant women to Greece then illegally placing the babies for adoption. Each baby was sold for 15,000 euros, while their mothers were given 500–5,000 euros.

The gang often forced women to deliver early via a C-section. In some cases, the ringleaders would make usurious loans to the mothers, forcing them to sell their babies in Greece to discharge their debt. Most of the babies were sold in Athens, Volos, Katerini, and Larissa. Gang members are facing prison sentences of up to eight years.

Cambodia

Adoptions from Cambodia were suspended by the U.S. Immigration and Naturalization Service in December 2001. U.S. Assistant Secretary of State Maura Harty reported in September 2006 that she was hopeful the Cambodian government would end the four-year suspension on U.S. adoptions from Cambodia.

China

Since 1992 more than fifty thousand children left China to be adopted in the United States. In 2005 alone, the U.S. issued nearly eight thousand visas to Chinese-born children adopted by American parents.

Those who have studied the foreign adoption program in China say its exploitation by traffickers is not a surprising outcome in a country still transitioning from communism to capitalism, where anything profitable is quickly commercialized. The thriving underground trade is driven in part by China's birth control policy. Chinese authorities say thousands of children are abducted or bought from poor families every year and then adopted.

Child and female trafficking is a serious problem in China. A report issued by the United Nations' Children's Agency in 2001 said more than a quarter of a million women and children have been victims of trafficking in China in recent decades. Children are sold for international adoption; older girls and women are sold as brides.

- March 2003. Police in southwestern China discovered twenty-eight baby girls, days to months old, hidden in suitcases on a long-distance bus. *Beijing News* reported that police believe they were destined to be sold. More than 20 suspects were arrested.
- October 2005. Shanghai police sought the parties placing babies for sale on eBay-owned Chinese site Eachnet. According to *China Daily*, 50 people perused the offer before it was removed.
- February 2006. A court in Hunan sentenced three baby traffickers to fifteen years in prison and imposed terms of three to thirteen years on six others.

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Twenty-three local government officials in Hengyang, the city at the center of the case, have been fired. Chen Ming, the director of Hengdong Social Welfare Home in Hengyang, Hunan, was sentenced to one year in prison for his role but is on the run.¹⁷

- March 2006. *The Washington Post* reported that Chinese police arrested twenty-seven members of a ring that had abducted or purchased as many as one thousand children in Guangdong Province and sold them to orphanages in Hunan for \$400 to \$538.¹⁸

Healthy Chinese infants are worth approximately \$3,000, nearly twice the average annual Chinese income, when adopted internationally. Adopting parents pay in cash, usually to the orphanage director. This creates an incentive for directors of orphanages to put up barriers to adoptions within China. The China Center of Adoption Affairs says that the money is reimbursement for the care of adopted children in orphanages. Orphanage directors, however, have been found to falsify reports to make it seem that the babies they bought had been abandoned, allowing them to gain government clearance for foreign adoptions.

"It's a corrupt system," says Brian Stuy, a Salt Lake City resident who has adopted three girls from China and operates Research-China.org, which traces the origins of children adopted from China. "It's just so driven by money, and there's no check and balance to the greed.... most families simply do not want to know if the child they adopted had been stolen and sold."

In December 2006 China instituted restriction for foreign adoption including age, weight, education, no history of drugs for psychiatric conditions that include depression and anxiety and they must be married at least two years. If either spouse was previously divorced, he or she must have been in the current marriage at least five years.

Guatemala

The number of Guatemalans adopted by American families neared 3,800 in 2005 after passing the three-thousand mark just one year earlier. One in a hundred babies born in Guatemala is adopted by Americans. Guatemala, a small country of only 11.2 million, has passed Korea and is now the third largest source of foreign adoption for the United States, trailing only Russia and China. The *New York Times* reported that Guatemala “has turned into a virtual baby farm that supplies infants as if they were a commodity” with the U.S. the number one destination.¹⁹

Guatemala lacks national legislation to regulate international adoptions; as a result, babies are openly exported. There is little state control over baby trafficking and most mothers, often illiterate, are unaware of their rights. Critics say Guatemala has become a baby farm where adoptions are too easy and prone to corruption.

Juan Carlos Llorca of the Associated Press, reported that in a six-month period in 2006 “the government has brought thirty criminal cases against notaries for falsifying paperwork, allegedly providing false birth certificates, and even creating false identities to avoid having to involve the birth father or the parents of underage birth mothers.”²⁰ Lawyers involved in Guatemalan adoptions can earn between \$12,000 and \$15,000 (U.S.) to complete the paperwork, while in some cases the couples pay as much as \$60,000 for a baby.

Josefina Arellano, who directs the government office that ultimately approves each adoption, says women give up multiple children in a row because it is lucrative. One Guatemalan mother named Elivia, however, won a

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yearlong legal battle, proving her baby had been illegally taken from her and placed for adoption. Elivia was forcibly taken to a house in San Pedro Yepocapa, Chimaltenango, and prevented by nurses from seeing her newborn. The lawyer handling the adoption confiscated Elivia's furniture and belongings and gave her 100 Quetzales (\$15) a week for expenses.²¹ As much as sixty percent of the country's population is considered poor by international standards and twenty percent are extremely poor. That means living on less than \$1 a day.

Casa Alianza, a children's rights group based in San José, Costa Rica, waged a legal battle that convinced a Guatemalan Supreme Court judge to order the baby, Pablo Ramírez Caño, back to his mother. By then, he was twelve months old.²² UNICEF has spoken out in favor of the state regulating adoption and encouraged Guatemalans to adopt these children so they don't have to leave the country.

Honduras and El Salvador, and much of South America, are just as poor, but their governments, and others all over the world, "clamped down on the exodus of their flesh and blood." Most countries shy away from promoting foreign adoption en masse because "they regard it as a national embarrassment when their most popular export is perceived to be their own children. But in Guatemala, of course, it is the profit-driven lawyers who all but run the show."²³

Korea

In 2005, 3,562 Korean children were adopted; 1,461 or forty-one percent by Koreans. Most of the children who were adopted had been born to unmarried or divorced mothers. Adoption has been uncommon in Korea, a conservative Confucian society where people are taught that blood ties matter above all.

During the 2006 Winter Olympics, U.S. skier Toby Dawson announced that he was interested in finding his

South Korean parents, whom he had not seen since he was two years old. He posted childhood photos of himself on an Olympic web site, including one taken at an orphanage in Busan, in hopes of learning about his past. So many people came forward with tales of lost or abducted children taken to orphanages, DNA testing was required to determine if his parents were among those searching for their lost or stolen children.

To encourage adoption in the country, the Ministry of Health and Welfare announced in July 2006 that it would offer financial incentives and adoption educational programs for its citizens, hoping to find homes for the children within Korea.

Peru

In the late 1980s and early 1990s, Peru was famous for its relatively easy adoptions. Thousands of foreign couples flocked to the country, and Americans alone adopted more than seven hundred and twenty Peruvian babies in 1991.

That changed after a series of scandals in which children were reportedly kidnapped from poor families, and lawyers and judges were bribed to falsify documents.

In February 2006 Peruvian police—working with Interpol, the FBI, and investigators from Spain, Colombia, and other countries—stopped an alleged baby-peddling operation. The investigation resulted from the death of Claudia Herrera. The young woman had been killed and her unborn child removed.

In another case, a German man and his Peruvian wife were charged with selling a baby for \$16,870 to a German woman, who was detained with the child in Ecuador. Police believe the couple had been buying newborns from poor women and bribing officials in isolated towns to issue false birth certificates.²⁴

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The Peruvian government created the National Adoptions Secretariat to enforce new codes that were so bureaucratic and time consuming that the number of legal adoptions by foreigners plummeted to ninety-two in 2004. Activists say the restrictions may have merely pushed the industry underground.

“It’s a situation that favors the proliferation of these trafficking rings and creates the markets and conditions for these international networks to operate,” said Sandra Soria, executive director of Peru’s nonprofit Institute for Infancy and the Family. She said it is impossible to know how many children are sold each year, for adoption, forced labor, or the sex trade.²⁵

Romania

Romania has been one of the largest sources of internationally adopted children. Under Ceausescu’s dictatorship, contraception and abortion were banned, putting enormous strain on many poverty-stricken families who were encouraged to let the state raise their children. Very few of the children placed in large institutions were orphans, although residential care centers were labeled “orphanages” by international media, and Romanians did not know about the deplorable conditions there. After the fall of Ceausescu, foreign journalists publicized the plight of these children and Romania reformed its child protection policies. In 1989 American and European families started to pay thousands of dollars to adopt children from ramshackle orphanages.

Freshly free from communism, with a hunger for money and a lack of capitalist experience, black market adoptions began to flourish. Several investigations initiated by European officials found that in many cases money had gone to middlemen and government officials. Many adoptions were illegal, arranged by criminal

groups, and many Romanian children were sold to pedophile rings, into prostitution, or into domestic work.

Adoption agencies have been accused of paying Romanian mothers to sign away their parental rights, sometimes while they were still in the maternity ward. The investigation by the European Parliament's special reporter for Romania, Baroness Emma Nicholson, sparked a public debate in May 2001. The publication of her report stirred fierce criticism of the country's child-care system, in which she cited "persistent abandonment of children, child abuse and neglect," and "child trafficking," adding that the "fundamental rights of children have been widely abused in Romania in recent years."

The Black Sea state imposed a moratorium on foreign adoptions in 2002, in response to concerns in the European Union that a wave of international adoptions had triggered baby trafficking. In December 2005, the Romanian Office for Adoptions (ORA) announced that none of the 1,100 children for whom there had been inter-country adoption requests would be adopted by foreign families. Instead, ways to protect them would be found in Romania.

Our government and its representatives entered into battle with Romania on behalf of prospective adopting couples who were disappointed. In April 2006, the U.S. House of Representatives unanimously passed House Resolution 578 urging Romania to "amend its child welfare and adoption laws to decrease barriers to adoption, both domestically and inter-country."

One of the bill's sponsors, Rep. Christopher Smith of New Jersey, co-chaired the U.S. Helsinki Commission that monitors human rights. A September 2005 hearing of that commission cited Romania's ban on international adoption as a human rights issue. With half a million in foster care in the U.S., this commission concluded that Romania is placing "an unrealistic priority on 'unification' of an abandoned child with biological relatives without regard for how long unification should

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be attempted, how old the child is, or how long he or she has been in state care without contact with relatives. As a result, it is nearly impossible to declare any child adoptable.”

Adoption to Western Europe was also halted and America has been joined by the European Parliament in attempting to persuade Romania to allow foreign citizens to adopt its “unwanted” babies. As of this writing, Romania continues to reject all foreign applications for adoption.

Flatley observes, “Our national policy allows large sums of cash to leave the country in an entirely unregulated system and browbeating foreign governments into surrendering children in a decision-making process for their foster children that none of our fifty states would permit for America’s waiting children....Lacking training in foreign policy or a sound regulatory framework, would-be adoptive families and their adoption agencies are encouraged to navigate the increasingly complex and treacherous geopolitics of countries around the world with virtually no training and in many cases a vested self interest. The result has been diplomatic and emotional chaos.”²⁶

Russia

Since 1992, when the government-imposed moratorium on international adoption was lifted, adoptions from the Ukraine have gone from a low of one to a high of 1,246. In 2001 thirteen times as many children were adopted from Russia as when it became independent in 1992. In addition, there have been a substantial number of adoptions from other former Soviet republics, such as Kazakhstan.

Anton Volskiy, a correspondent for NT Television in Russia, reported that “in recent years, Russian officials have [been] reacting increasingly negatively to foreign-

ers' adopting Russian children, with some nationalist lawmakers asserting children are being 'bought' by foreigners. Cases of abuse by foreign adoptive parents are widely reported in the Russian media."

Advocates for children, however, have disputed the assertions and say restricting foreign adoptions would harm thousands of Russian children waiting to be adopted. Yet Russian authorities remain concerned that the U.S. does not have a federal or state system to oversee international adoptions or to monitor the living conditions of adopted children from Russia.

Since 2000 Russia has required foreign adoptions to be handled only by accredited agencies. Such agencies must provide the Russian government with documents proving post-placement and at-home visits by a social worker at six months and one, two, and three years post-placement, said Patricia Beristain, the Eastern European program director for Hand in Hand International Adoptions of Tucson, Arizona.

Alexander Demkin, Russia's vice consul in New York, reports a conflict. "One of the major problems for us is that under U.S. legislation on adoption, passed in 2000, children adopted abroad become U.S. citizens immediately after crossing the U.S. border on the way to their foster homes. We consider them to be Russian citizens until they reach eighteen, although when we make inquiries with their foster parents, we often hear the answer, 'Talk to our lawyer, please. Our child is an American citizen.'"

Volskiy reports: "Very few families actually register a kid throughout [sic] the Russian Consulate. What they usually do is they go to the court and get the American citizenship for the kid and they cancel the Russian citizenship and since then the Russian Consulate Authority can't keep track of it."

According to the Ministry of Education and Science, twelve Russian children with foreign foster parents have died from abuse since 1991, with eleven of these cases

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being registered in the United States. As a result, in April 2006, a top Russian prosecutor called for revoking the accreditation of twelve U.S. adoption agencies,²⁷ saying the companies had failed to file reports on the condition of Russian children after adoption.

In May 2006, Russia passed an amendment prohibiting foreign, independent adoptions through unlicensed agencies. The amendment is predicted to become federal law by the end of the year.

Following are a dozen *reported* cases of Russian children adopted and then killed by their American adoptive parents since 1996. Half of them had been in their new families a mere five to ten months when their adopters murdered them. These are in addition to those who were abused, had their adoptions terminated, or were traded or sold to others:

- February 9, 1996: David Polreis Jr., two, of Greeley, Colorado, was beaten to death. His adoptive mother, Renee Polreis, was convicted of child abuse resulting in death and sentenced to 18 years in prison. David had been adopted six months before his death.
- November 25, 1998: Logan Higginbotham, three, of Shelburne, Vermont, died of massive head injuries. Adoptive mother Laura Higginbotham stated that Logan fell and hit her head on the floor. In 2004, Laura Higginbotham pled no contest to a charge of involuntary manslaughter and was sentenced to one year in prison. Logan was in the U.S. seven months before her death.
- October 31, 2000: Viktor Matthey, six, of Hunterdon County, New Jersey, died of cardiac arrest due to hyperthermia after adoptive parents Robert and Brenda Matthey locked him overnight in a damp unheated pump room. Viktor had also been severely

beaten. Both parents were sentenced to ten years for confining Viktor to the pump room, ten years for excessive corporal punishment and seven years for failing to provide medical care. The sentences run concurrently. Viktor, one of three children the Matthey's adopted from Russia, was in the U.S. ten months before his death.

- November 30, 2001: Luke Evans, sixteen months, of Lowell, Indiana, died of massive head injuries, shaken baby syndrome, and malnutrition. Adoptive mother Natalie Fabian Evans' murder trial has been delayed five times. Jury selection was taking place as of this writing. Luke was in the U.S. six months before his death.
- December 14, 2001: Jacob Lindorff, five, of Gloucester Township, New Jersey, died of blunt force trauma to the head. He also suffered second degree burns on his feet, hemorrhaging in one eye, bruises, and seizures. His adoptive mother, Heather Lindorff was found guilty of second degree endangering and aggravated assault and sentenced to six years. Adoptive father James was sentenced to four years probation and four hundred hours of community service for child abuse. Jacob, one of six children the Lindorffs adopted from Russia, was in the U.S. six weeks before his death.

Upon Heather Lindorff's 2003 conviction, the court ordered custody of the four surviving adopted children, ages ten to fifteen, to Heather's mother. The state Division of Family and Youth Services closed their case, and the grandmother gave the children back to the Lindorffs.

In May 2006, one of the children, a twelve-year-old, was hospitalized for being undernourished, weighing sixty-one pounds. DYFS immediately re-

moved the remaining children, who may also have been starving.

- August 15, 2002: Zachary Higier, two, of Braintree, Massachusetts, died after sustaining a bilateral skull fracture, strokes, brain swelling, and detached retinas. Adoptive mother Natalia Higier pled guilty to involuntary manslaughter and was sentenced to two-and-a-half years in jail with 18 months suspended for four years.
- October 23, 2002: Maria Bennett, two, of Lancaster, Ohio, died from shaken baby syndrome. Adoptive mother Susan Bennett pled no contest to one count of reckless homicide and was sentenced to three years in prison. Maria was adopted nine months before her death.
- August 11, 2003: Jessica Albina Hagmann, two, died from asphyxiation. Adoptive mother Patrice Hagmann claimed that she accidentally killed Jessica while trying to stop her from having a tantrum. Hagmann was sentenced to probation and two suspended five-year terms.
- October 16, 2003: Liam Thompson three, of Columbus, Ohio, died from scalding after his adoptive father, Gary Thompson, placed him in a tub of 140-degree water, where he received second- and third-degree burns. His adoptive mother, Amy Thompson, an LPN, withheld treatment, taking the child to the hospital only after he went into respiratory failure. Amy was sentenced to fifteen years for child endangerment and involuntary manslaughter. Gary received fifteen-to-life for murder. Liam had been adopted five months before his death.

International Intrigue

- December 18, 2003: Alex Pavlis, six, of Illinois, was beaten to death by his adoptive mother, Irma, six weeks after his adoption from Russia. Irma admitted she had beaten the boy and was found guilty of involuntary manslaughter and sentenced to twelve years in prison.
- January 22, 2005: Dennis Merryman, eight, born Dennis Uritsky, of Hartford County, Maryland, died after suffering cardiac arrest brought on by starvation. He weighed thirty-seven pounds. Both parents, Samuel and Donna Merryman, were arrested and charged with manslaughter and first-degree child abuse resulting in death and reckless endangerment. Dennis had been adopted when he was three years old.
- July 2, 2005: Nina Hilt, two, of Wake Forest, North Carolina, died after suffering several blows to her abdomen. Her adoptive mother, Peggy Sue Hilt, pled guilty to second-degree murder. Nina, originally named Viktoria Bazhenova, was from the Siberian city of Irkutsk. She was adopted in 2003 at fifteen months, the second child adopted by the Hilts. Hilt was sentenced to twenty-five years in prison with a possible extension of ten years if her behavior is judged not to meet requirements laid down by the court.

The belief that international adoption rescues children and provides them a better life is certainly not always the case. In addition to abuses that led to deaths, other Russian adopted children have survived abuse by Americans who adopted them.

One such child was a four-year-old boy who had been born with one arm. Jane and Timothy Cochran of New York State are accused of repeatedly beating him with hands, a wooden spoon, a belt, and a pair of scis-

sors. Jane Cochran cut his ear with scissors and threatened to cut out his tongue for not reading his prayers correctly in English, according to prosecutors.

The boy was cared for by a doctor and is expected to recover, physically—but the doctor added, “I’m not sure how long it will take for his emotional wounds to heal.”

Abuse and Sexploitation

Abuse of children adopted by Americans from countries other than Russia has also resulted in criminal charges:

China: In January 2006, Jennifer Alvey of Tennessee was charged with killing her twenty-month-old adopted daughter after telling police she shook the toddler “without thinking,” striking the child’s head on a coffee table, causing damage that led to her death.

In November 2005, Tracey Brosch of Michigan and her husband were charged with first-degree child abuse of a thirteen-month-old girl named Kaitlyn. Tracey and her husband adopted the child just four months prior through Great Wall Adoption Agency in Austin, Texas. Doctors feared the toddler’s injuries would leave her blind, but were able to restore her sight. Kaitlyn is in foster care. Tracey Brosch, forty-three, faces up to fifteen years in prison, charged with first-degree child abuse.

Guatemala: In March 2003, Jeannie Malak, of Hyde Park, New York, pleaded guilty to felony assault, admitting that in July 2001, she beat her adopted infant son Joseph Jr. so severely that he was left physically and mentally disabled. At the time of her sentencing, nearly two years after the incident, the boy could not walk without assistance, had limited communicative abilities, and had been diagnosed as mentally retarded.

Joseph Jr. was one of two children the couple adopted from Guatemala in 1999. Authorities said the adoption was carried out with a forged letter from a psychiatrist Mrs. Malak had been seeing, attesting that she was mentally fit to adopt the children. Malak, who at the time of the incident was married to pediatrician Dr. Joseph Malak, was sentenced to three years in state prison.

Perhaps the worst kind of child abuse is sexual. The two most highly publicized cases of the sexual exploitation of international adopted children involve a boy and a girl, each apparently sold to pedophiles and used as sex slaves.

William (Bill) D. Peckenpaugh, from Marion County, Oregon, traveled to Romania to adopt a nine-year-old boy in 2001 through Tree of Life Adoption Center of Portland, Oregon.

Peckenpaugh, who claimed to be a Catholic bishop, was a member of the American Association for Nude Recreation. He is also the author of “Familial and Societal Attitudes toward Nudity, and the Effects on Children’s Development,” an article quoted by nudists and naturists alleging that naturist children are less sexually active and more emotionally healthy than non-naturist children.

The crime was discovered after a sexually graphic video was found in a camera that had been returned to an electronics store. Peckenpaugh pleaded guilty to a total of thirty-three charges, including first-degree sodomy, two counts of sex abuse, and one count of using a child for the purpose of sexual display, and was sentenced in 2005 to thirty years in prison.

Darin Tweedt of the Marion County D.A.’s office called the Romanian boy’s tragic journey from an East European orphanage to a life of sex abuse in Marion County “off the charts.”

Matthew Mancuso, a retired engineer from Plum, Pennsylvania, found his victim, Masha²⁸ through an adoption agency in Cherry Hill, New Jersey. Mancuso requested a five- or six-year-old, blonde, blue-eyed girl and picked Masha from a videotape the agency sent him.

Mancuso pleaded guilty to eleven counts of child sexual abuse. The judge called it one of the most heinous cases of child abuse she had ever seen and sentenced him to a minimum of thirty-five years in prison. Florida prosecutors are also pursuing Mancuso for the crimes they say he committed against Masha on a visit to Disneyworld.

As with Peckenpaugh, photos of the abused child were what led to the arrest and end of the abuse. FBI agents tracked Internet pictures of Masha showing her tied up and being raped repeatedly. Over a five-year period, they could see the child aging, and were finally able to identify the location where the photos were being taken. Rescued at thirteen years of age, with pictures of her still online, she had the courage to go public, in an effort to urge abused children to tell someone. Masha worked with lawmakers to forge a bill known as “Masha’s Law.” The bill was introduced by John F. Kerry (D-MA) in recognition of the fact that child pornography “prolongs the child abuse indefinitely—long after the child is rescued.”

While an important step in regards to child pornography, this law does nothing to prevent pedophiles from adopting children. It is impossible to determine how many other children are being abused by their adopters who have not been apprehended because they have not distributed photographs of their victims. It is likewise unknown how many businesses, identifying themselves as adoption agencies, continue to allow pedophiles and others to secure children without background checks, home studies, or follow-up visits. Most states have no procedures requiring adoption agencies to search confidential statewide registries of people who have abused

or neglected a child, such as was passed in Ohio in March 2006, before allowing a child to be placed.

Jeannene Smith handled Masha's adoption through an Indiana-based agency called Families Thru International Adoption (FTIA). Fired by FTIA midway through the process, Smith went to New Jersey and founded another agency, Reaching Out Thru International Adoption (ROTA), which finished the adoption and was supposed to do post-placement checks as required by Russian law.

No one associated with the agencies in either Indiana or New Jersey interviewed Mancuso's former wife, or his daughter, who alleges that he molested her. Smith has since co-founded a lobbying group called Focus on Adoption, which lobbies on behalf of agencies that facilitate international adoptions. She has not commented on the case publicly, citing confidentiality laws.

ABC, which broadcast a *Prime Time* episode about Masha, was flooded with emails from agencies that handle international adoptions and their advocates. The network was urged to reconsider airing it because of concerns that the story would equate international adoption from Russia with the sexual trafficking of children. There was reason to fear that Russia would continue to make permanent its already imposed moratorium on future American adoptions as a result of the abuses and murder of other children adopted from Russia.

Maureen Flatley, who has worked closely with this case, said, "It doesn't appear that [the agencies] talked to anybody about Mancuso, that they simply took what Mancuso said to them at face value and placed this child with him." Adoption experts are especially troubled by the fact that there were no home visits when she got to Pittsburgh. Just one, they say, should have turned up some disturbing details—like the fact that Masha had no bedroom.

Post-placement supervision is required in Pennsylvania, where Masha lived with Mancuso, but only for

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domestic adoptions from foster care. However, no such law exists for international placement in violation of Russian regulations for post-placement visits and reports. While more than \$500 million has been spent on Russian adoptions since the fall of the Soviet Union, Flatley finds that the policy of agencies placing children from Russia in the U.S. “seems to be, if the check clears, the kid is yours.”

Targeting Trafficking

Human trafficking often masquerades as child adoption. The United Nations has adopted protocols applying to the sale of children for the purposes of sexual exploitation, labor, or illicit adoption. Carol Bellamy, executive director of UNICEF, has said: “Trafficking is among the worst violations of child rights in the world. If we are to put an end to this brazen trade, we need courageous government leaders who will criminalize the trafficking of children in all its forms. Failure to do so is an abuse of children.”

The Hague Convention on Inter-country Adoption was created to stem trafficking and abuse of children through international adoption by setting minimum standards and procedures for international adoption. As of this writing, sixty-eight countries have ratified the Convention. The U.S. signed the Convention in 1994, and in 2005 and 2006 proposed changes, but as of this writing has not ratified and thus is not mandated to comply.

One small step toward ratification occurred in August 2006 when Colorado reached an agreement with the federal government to oversee the licensing of international adoption agencies operating in the state, becoming the first state in the nation to do so. The state will charge agencies conducting international adoptions accreditation fees up to \$6,000. Eleven other states ap-

plied to oversee foreign adoptions, but dropped out for political or economic reasons.

It is important that there be international agreement on basic policies. However, The Hague may not go far enough, according to Bastard Nation (BN). They criticize the Convention for allowing countries to prevent adoptees' access to their original birth certificate.

The U.S. also remains, along with Somalia (which cannot sign because it does not have a stable government and thus cannot ratify agreements), the only nation in the world that has failed to ratify the United Nations Convention on the Rights of the Child. The UN Convention recognizes the rights of the child to a name at birth, nationality, and as far as possible, the right to know and be cared for by his or her parents. The Convention also recognizes that children who are not able to live with their parents have the right to maintain contact.

Clearly, as Babb suggests, the U.S. does not agree that children have these rights.²⁹

Chapter VI: **Dodging Danger**



The infant adoption market is characterized by high fees,

demand for children that outstrips available supply, and marketing aimed both at prospective adopters and pregnant women who might consider placing their infants for adoption.

Elizabeth Samuels



State and county agencies (known as departments of social services, human services, children and family services, and so on) are safe, reliable resources for adoption. Adoption agencies receive accreditation from the Council on Accreditation Services for Children and Families¹ (COA) or from the Joint Council on International Children's Services² (JCICS). Both are under the auspices of the Child Welfare Information Gateway and all are sources of reliable information. The most current and accurate information on international adoption is available from the U.S. Department of State.

Beyond that there exists a continuum from reputable adoption agencies and individuals, to unscrupulous gray market operations to black market baby mills. Someone selling drugs on a street corner is clearly doing something illegal. But the legality becomes far hazier when a doctor prescribes addictive drugs over long periods of

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time. There are often fine lines between ethics and the law.

In adoption no one is openly selling children on street corners. With no lines of demarcation, it is often impossible to differentiate upstanding from fraudulent adoption agencies. Whether for-profit or not-for-profit, businesses and charities of any kind can be unethical or operate illegally. Non-profit is merely a tax status.

Being a licensed adoption agency often means nothing more than that the company has a license to conduct business and in some states, agencies which conduct international adoption are exempt from licensing.

William M. Schur, adoption law scholar, notes with great dismay that “standards which adoption agencies must meet for licensing purposes are generally *minimum* standards.”³ This is unacceptable for something as important as the transfer of child custody.

The New State Citizens’ Coalition for Children has a web page entitled “Consumer Alert! Know Your Adoption Agency!” NYSCCC Executive Director Judith Ashton cautions: “State licensing procedures come under attack nationally because licenses are sometimes given to dishonest, incompetent, and/or disreputable individuals who know there is big money to be made in adoption. Over and over, we caution prospective adoptive parents to do their homework, and be sure the agency they work with is ethical, responsible, experienced, and safe. We need to continually reinforce this message with anyone who is pursuing adoption.”⁴

Marie Dolfi, president of Adoptive Families Coalition Inc., notes: “It amazes me how many people will work with an agency or attorney without investigating the professional. The best rule of thumb, in the adoption marketplace, as elsewhere: if it sounds too good to be true, it probably is.”⁵

The summary of the November 1999 Evan B. Donaldson Adoption Institute's Anaheim Conference, "Money, Power and Accountability: The 'Business' of Adoption" states: "There are currently thousands of adoption businesses and no guidelines as to who qualifies as an adoption professional. Anyone who decides to be involved in adoption, even a blatant 'child trader,' can legally label himself or herself a 'professional.'"⁶

"Nobody's watching for cheaters," says Pertman. Few states go far enough in monitoring and enforcing standards that would prevent adoption agencies from pressuring pregnant women and lying to adoptive parents.⁷

"Anyone can hang a shingle by buying a web site, and I tell people to carefully check references.... There are ways to make money off of illicit adoption," according to Pertman.⁸

Gloria Hochman, the National Adoption Center spokeswoman, urges caution regarding adoption services found on the Internet. Reputable web sites should include a street address and phone number, and be operated by a licensed agency.

Commenting on an adoption scam, Susan Brooks, a professor of law at Vanderbilt University, said, "[t]he whole realm of private adoptions is very much vulnerable to...abuses because there isn't any clear monitoring."⁹

Adopting Parents: Avoid Being Victimized

- Read "10 Things Your Adoption Agency Won't Tell You" by Michele Marchetti at SmartMoney.com¹⁰
- Speak with previous clients of the agency or the person with whom you plan to arrange an adoption.

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- Search the Internet for feedback. The Better Business Bureau is not always aware of or does not always report complaints.
- Be aware that agency operators that are forced to close operations in one state often change the name of their business and reopen in another.
- If international laws are causing delays, something may not be right.
- Know what standard fees are and avoid paying more. Paying reasonable costs always is acceptable and necessary even when adopting children from foster care.
- Avoid flying out of state to meet with an expectant mother.
- Be concerned about an expectant mother being flown out of state.
- Avoid paying an expectant mother's living expenses, and be wary of being asked to.
- Ask what counseling the expectant mother received and whether the father's release was obtained. Un-named fathers can be a source of problems later.

“Do as much background checking as possible,” said Vern Armstrong, chief of protective services for the Iowa Department of Human Services. “[Adoption] is one of the most major life-altering decisions you’re going to make, and it’s going to cost quite a bit of money.”¹¹

Given the frequency of reports of adoption fraud, it is difficult to imagine the true extent of damage, insofar as the majority of cases are unreported. The following are merely a sampling of the most recently reported cases:

- In 2005 Cherish Tarbox and Jenny Lodge, mother and daughter, were sentenced to thirty-three years for theft by deception in a scam that involved prospective adopters in four states.

The District Attorney said monetary loss is the least of the damage done to adoptive hopefuls. “There is no way you can calculate the emotional turmoil these families have gone through,” he said. “These crimes are particularly heinous because the victims were trying to start families or add to their families.”¹²

One of their victims, Sandy Hunter, who paid expenses expecting to adopt twin babies that were not for adoption, expressed an almost universal reaction of people in this circumstance: “Oh my God, this was just devastating to us. I can’t imagine how someone would be so cruel.”

- In May 2006, Bobbi Jo Quarzenski, thirty-one, pleaded guilty to theft and criminal conspiracy because she accepted money for rent, bills, and other living expenses from three parties interested in adopting her child.¹³
- Later that month, Belinda Ramirez was arrested in Texas on a federal warrant for running an Internet adoption scam. She was allegedly “very sophisticated” and set up a very elaborate story about her pregnancy. She sent photographs that were supposedly of her and her boyfriend, and accepted payment for expenses despite not being pregnant and having no children.¹⁴
- In August 2006, Shannon Kay Schaffer of Iowa pleaded not guilty to second-degree theft by deception. Schaffer is accused of taking more than \$1,000 in gifts and assistance from a Texas couple for what was to be the adoption of twins.¹⁵
- In August 2006, adoption attorney Maria Tomasky of Westport, Connecticut, had her license suspended for one hundred and twenty days. Nine would-be

adoptive couples accused Tomasky of taking tens of thousands of dollars and never receiving children they were expecting to adopt from overseas. Tomasky was also ordered to take a legal ethics course, and she will be banned from taking part in both foreign and domestic adoptions.¹⁶

- In July 2006 Amy Cumbee offered her baby to women and couples she found on the Internet.

Lori Coleman is one of two would-be adopters who flew out-of state to meet Cumbee and give her money. After Cumbee's scam was caught on hidden cameras on *Dateline*, Coleman said, "In the adoption world, it's just like a free-for-all, People are just going nuts because there are no restrictions."

Chantel and Mike Early contacted Maxine Buckmeier (Chapter 4) to adopt an infant. Buckmeier told them she knew a California facilitator (Aragon) who had found a pregnant woman named Amy Cumbee who was looking for a Midwestern couple to adopt her baby. Laurie Aragon set up a conference call with the Earlys. The Earlys then flew from Iowa to Nashville, Tennessee, at Cumbee's request for the birth of her baby. Cumbee was not there when they arrived.

In July 2006 the Earlys watched *Dateline* TV's hidden cameras revealing Amy Cumbee offering her baby to other women and couples she found on the Internet. The Earlys claim to have paid a \$7,000 fee required by Aragon, \$1,500 to retain an attorney for the expectant mother, more than \$1,000 for the mother's rent and other costs, and "thousands in attorney fees" to Buckmeier.¹⁷

Becoming involved with an expectant mother who is considering adoption can involve emotional devastation if the adoption fails to materialize. This is true whether dealing with the mother directly, via the Internet, or through an intermediary, facilitator, attorney, or agency who locates a pregnant woman considering adoption.

Being able to distinguish a legitimate change of mind, from someone who had no intention to place a child can be difficult or impossible. The agency and/or facilitator may or may not have been aware of an intent to commit fraud.

The fact is, however, that no matter how legitimate the intent is, no woman can make a decision about placing her child for adoption until she has seen the child. The risk is very real: fifty to eighty percent of expectant mothers planning to place their child for adoption do not.

Those who monitor private adoption know that there is no shortage of stories of abuses and heartbreak. It is not unusual for half a dozen people to pay the same broker for the same baby, or multiple couples paying expenses of a woman leading up to the birth of a child they never receive.¹⁸

In *The Cruelest Con*, Kelly Kiser-Mostrom recounts the rollercoaster ride she and her husband endured in forming attachments with alleged expectant mothers. She sent gifts and flew to be with the mothers when she was told they went into labor. She was asked to pick a name for “her” baby—only to be told that the mother decided not to proceed with the surrender. This happened again and again, with one expectant mother after another. Mostrom admits it was all because it seemed a “quicker” and less expensive path to adoption.

“Wow! I thought...Look how easy this looks and most facilitators tout placement rates at six to eight months, upon signing with them...their application fee was only \$100 and an additional \$2,000 was required upon the acceptance of a match with a prospective birthmother. After researching several other specific facilitators, I determined their prices ranged from \$3,000 to \$6,800 for the same services....so certainly Adoption Vision policy was to our advantage.”¹⁹

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Adoption Vision led Mostrom to Sonya Furlow, owner of Tender Hearts Services. Mostrom checked with the Better Business Bureau before doing business with Furlow. But Furlow conned Mostrom, because the BBB had no reports on Furlow due to the reluctance on the part of adopting parents to report questionable methods of obtaining a baby.

“If the deal works out and the couple gets the child,” says Robert Emmons, chief of the Consumer Fraud Bureau at the Nassau County, New York, District Attorney’s office. “They will keep their mouth shut because they got what they want, which is the baby....It happens daily... It’s only in the cases where the deals go bad that the law enforcement ever hears about it.”²⁰ Victims of adoption scams do not report them or recoup as much of their financial losses out of court and sign gag orders, leaving the con artists to prey on others.

As a result of Mostrom’s determination, Furlow was prosecuted and pleaded guilty to three counts of mail fraud in 2001 after duping forty-four couples out of \$215,000 by matching them with nonexistent expectant mothers. She was sentenced to three years and ten months in prison. Mostrom received a partial refund through the company that bonds adoption facilitators and was successful in driving Adoption Vision—which had led her to Sonya Furlow—out of business. And, because she refused to sign a gag order, she was able to name all of the parties in her book.

Dan Gearino, reporting for Iowa’s *Quad City Times* in February 2006, found the same reluctance to report adoption scams. Gearino interviewed a Wisconsin woman who went through two failed adoptions with Adoption Insight within a month. Like Kelly Mostrom, she and her husband took time off from work and traveled long distances, twice, believing they would be taking home a child. And each time, they went home empty-handed after being told that the mother had decided to keep the baby.

Within days of the second failed adoption, the Wisconsin woman was offered a third situation and was told by Adoption Insight it would be handled by attorney Maxine Buckmeier (Chapter 4). The un-identified would-be adopter was told of an expectant mother who would be moving from the West to live in a Sioux City apartment building for several months before giving birth. “The whole thing about them relocating this mother, it just seemed suspicious to me. Why would they do that and why would they support her? It just seemed wrong,” she said.²¹

The Wisconsin woman and her husband demanded a refund when no adoption resulted, and recovered some of their fee, but never reported Buckmeier or Adoption Insight and only agreed to be interviewed anonymously, fearing that being identified would make other adoption professionals reluctant to work with them, according to Gearino.²²

Dawn MacKeen, in *Babies for the Highest Bidders*, also found that couples worry that if they come forward, they will lose their chance at ever getting a child.²³ Their desperation makes them vulnerable and their reluctance to report it leaves the door wide open for others to be taken in.

Adopting a child whose parents' rights have already been relinquished or terminated eliminates fear of the mother deciding to parent her child or of a father coming forward to revoke the adoption. Such adoptions are legal, safe and truly altruistic. Those wanting to adopt can choose to parent a child who is in need of a family or pin their hopes on the chance that an expectant mother—who they may have outlaid moneys to locate and or support—may or may not decide to place her child for adoption. Likewise, each victim of an intentional scam has the choice of being part of the problem or part of the solution.

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Kelly Mostrom chose to be part of the solution. After she healed her loss, she and her husband adopted three siblings through the Department of Family Services, already waiting for her and her husband's love and care.

From Russia, With Love?

Attempts at adopting orphans internationally are equally risky. Sympathy for Russian orphans and desperation to adopt has been, and likely will continue to be, exploited.

Victoria Farahan from the Ukraine met prospective parents in her home, sometimes in groups, alleging to have connections with an international adoption agency and an orphanage in Russia. She sent her clients email descriptions of Russian children who she claimed needed adopting.²⁴ The photos she showed them were of her own children. The messages ostensibly originated in Russia, though her passport shows that she was not there when the messages were sent. The orphans apparently, like her trips to Russia to see them, never existed.

Special Agent Steven T. Secor, who led the investigation, said: "She was very convincing. And she was dealing with couples that wanted babies and were willing to overlook some things." She eventually duped six couples out of a total of \$100,000. In July 2006, Farahan pled guilty to two counts of mail and wire fraud and five counts of wire fraud.²⁵ Farahan repaid \$97,000 and was sentenced to two years on electronically monitored home detention and two to five years probation.

In a separate case, complaints were also filed against Robert Kuschel of Adoption Placement Inc., in Plantation, Florida, in September 2006. Seven couples said they spent a total of \$141,000 to adopt children they had not received. Rammes and Jane Seaman said they paid

\$28,000 to adopt a baby from Russia, but they never received a child. Kuschel reportedly sent letters to hopeful adopters stating that the agency has been dissolved.²⁶

As long as there are people willing to pay such fees based on the promise of a child, there will be those who take full advantage of them.

Expectant Mothers: Avoid Being Victimized

Two sources of information for those considering surrendering a child for adoption, both written by knowledgeable mothers who have surrendered, are the booklets:

- “Your Rights and Responsibilities: A Guide for Expectant Parents Considering Adoption,” by Brenda Romanchik, available through Insight Adoption.²⁷
- Heather Lowe’s “What You Should KNOW if You’re Considering Adoption for Your Baby,” available through Concerned United Birth-parents.²⁸

Surrendering a child for adoption is an incredibly difficult and stressful decision, placing mothers in a powerless and “socially disfavored position.”²⁹ “Impoverished pregnant women are unapologetically considered ‘targets’ for creative marketing schemes,” according to author Jim Gritter.³⁰

Surrendering a child is a decision that has a lifelong impact on both mother and child. In most states a relinquishment of parental rights cannot be signed until after the birth. Even if allowed by law, it is best *not* requested until the new mother has the opportunity to see and hold her baby and have it become a reality for her.

The CWLA Standards of Excellence for Adoption Practices recommend that all mothers considering adoption and their families receive “counseling to help them

understand the grief and loss” they may experience. Samuels states: “For mothers considering placing their children for adoption, skilled, unbiased counseling is invaluable: complete, well-communicated information is indispensable; and time is, perhaps, ‘the wisest counselor of all.’”³⁰

Romanchik reminds expectant mothers, “You have the right to change your mind and decide to parent your child anywhere in the adoption planning process until the ‘Consent to Adoption’ papers are signed.” In fact, half of all women who consider relinquishment while pregnant change their mind after giving birth, according to Pertman. Graham Wright, president of the California Association of Adoption Agencies estimates, however, that “when licensed agencies work with pregnant women, about eighty percent end up keeping their babies.”

Once the decision to relinquish is made, it is irrevocable. Unlike other business contracts or transactions, there is no “cooling off” or grace period. Romanchik states that in some states “there may even be a period after these papers are signed to revoke your consent.” Attempting to revoke a consent to adopt, however, even during very limited time periods, requires good cause, legal fees, often proof of fitness, and is rarely granted. (See Chapter 9, “What’s the Rush?”)

Adoption can guarantee only a different life, not necessarily a better one, for those adopted and their mothers. Expectant mothers, therefore, need to know and be able to honestly access the pros and cons of adoption for themselves and their child. As Jim Gritter advises: “A pregnant woman considering adoption for her child needs to consider the ratio of losses and gains posed by the adoption choice.”³¹

For the child, stranger adoption adds “increased risk for psychological and academic problems in comparison to their non-adopted counterparts” according to psy-

chologist and researcher David Brodzinsky.³² John Triseliotis describes the additional psychological tasks adopted children need to deal with that complicate their development. These include “attaching to new parents, understanding the meaning of adoption, acknowledging the differences involved in having two sets of parents, and dealing with the sense of loss of the original parents and the element of rejection it conveys.”³³

According to the Center for Adoption Support and Education, adopted children face difficulty in school with assignments (such as the family tree). CASE also advocates for school policies to “prohibit harassment and negative comments about adoption and foster care, just as they already apply to gender and race.”³⁴

Making such a difficult and permanent decision for oneself and an innocent child requires input from knowledgeable, professional, and unbiased parties *prior* to contacting an adoption provider. Incomes of adoption providers are dependent upon placing babies in adoptive homes. Reliable information is available from sources, such as the National Adoption Information Clearinghouse (NAIC).³⁵ To fully understand the impact of surrendering a child to adoption, read material by or speak with, mothers who have surrendered a child to adoption who can be located through Concerned United Birthparents (CUB).³⁶

Attempting to find suitable parents on the Internet is extremely risky. No reputable adoption agency has just a web site and an 800 phone number but no physical address. It is impossible to judge the prospective parents of your child from a photo and a bio. Some biographical descriptions are accurate, others generic, often straight from a how-to-adopt book, Internet site, or an adoption facilitator’s instructions. Complete criminal background checks of those planning to adopt and home studies are

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crucial for the safely and well being of adopted children. One cannot be too cautious.

Sharen and Michael Gravelle of Ohio are a worst-case scenario of how deceptive and harmful some adopters can be. The Gravelles had adopted eleven special-needs children who ended up being removed from their home in September 2005 when some of the children were found sleeping in cages.

After the abuse was brought to light, it was determined that Sharen had signed her own home study in the 1990s for one of the first adoptions. Gravelle also signed a statement that she and her husband had one child, when they had five. The signed statement further indicated the Gravelles met in church, despite testimony that the couple met while attending STOP, a sexual abuse counseling program. The home study indicated the couple reported that they had never been turned down as foster parents; this was also untrue. Michael Gravelle had told Catholic Charities in Lorain County that he was addicted to, and sold, hashish, and that the family had never been investigated by a social services agency. In fact, Michael Gravelle had been investigated for sexual abuse allegations by his daughter from a previous marriage, and the Gravelles began adopting after abandoning another of their children at a shelter.

The Gravelles' ability to deceive adoption agencies indicates how difficult it is to screen prospective parents.

Carrots and Trojan Horses

In June 2006, Planned Parenthood announced a decision to partner with Independent Adoption Centers. Many "crisis pregnancy centers" that purport to offer unbiased counseling are affiliated with adoption providers.

Amnion Pregnancy Crisis Center is one of many such pregnancy crisis centers that offer to help pregnant women. Amnion's web site states that they "do not re-

ceive any financial remuneration from any adoption agencies,” and that they do not “represent prospective adoptive parents nor assist them in their search for a child.” They do not state, however, who does fund them, nor do they claim to be not-for-profit or connected to any government agency. Amnion offers to “counsel” pregnant women while they “make an adoption plan, but...cannot assume any legal responsibility for adoption arrangements.”

The advice they offer is that: “If a woman (or couple) is not ready at present to become a mother because of financial, emotional, or any variety of other circumstantial situations, adoption is the choice by which you decide to give life to your baby and by carefully choosing their adoptive family, you give them everything within your power to set them on a course for a healthy and happy future.”³⁷

Adoption is one choice; it is not the only one. It is contrary to good counseling practice to exaggerate difficulties, especially those of a temporary nature, and limit problem solving to one solution. Reputable counselors offer clients encouragement, unbiased options, and resources.

Many agencies and adopters today offer to pay living expenses or other financial support. State laws allow this to varying degrees. It is often difficult, however, to distinguish the payment of expenses from baby selling. Accepting payments for support often places unnecessary pressure on a mother who has accepted payments to complete an adoption.

“To what extent do prospective adoptive parents’ expenditures to cover a birth mother’s medical costs or other living expenses create a sense of indebtedness that may affect her decision-making? Does a birth mother ultimately ‘owe’ it to the prospective adoptive parents to follow through on an adoption because a good deal of money has been expended on her behalf?” asks Madelyn

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Freundlich, director of the Policy Department of Children's Rights.³⁸

Pertman reports that prospective adopters receive online “instructions about how to use financial incentives to persuade ambivalent pregnant women to relinquish their children.”³⁹ In some cases, accepting payments might put a mother in legal jeopardy.

Most surrendering mothers, who can, choose open adoption. Once a decision is made not to parent, open adoption is preferable; however, it is not easy nor is it a compromise situation. A mother who places her child in an adoption that remains open will be spared the pain of not knowing if her child is dead or alive, but is no longer parent to her child and may suffer tremendous depression and stigma.

Carole Anderson, past president of CUB, said: “Whether adoptions are open from the beginning or are opened later by search, they still involve the separation of children from their families, with all the damaging effects that brings. In all adoptions, open or closed, children grow up pretending to be related to unrelated people; the children’s parents...lose their parenting roles...relationships among remaining members of birthfamilies are distorted...

“The way most open adoptions are handled, with birthparents participating in their own destruction and suffering from more ambiguous losses, it may be even harder for open adoption birthparents to acknowledge and face their losses.”⁴⁰

Romanchik reports, “[B]irthmoms in open adoptions actually experience more grief symptoms than less. But they also grieve in a much more healthy way than our predecessors. We don’t bottle it up and shove it under the rug to deal with at reunion. The contact we have forces us to confront our loss. We don’t do open adoption because it hurts less; we do it because it is what is best for our kids.”⁴¹

Open adoption is a term that is often used incorrectly or in an unclear way. Lack of clear and specific intentions and expectations can be a source of great stress for all parties later on. Without legal representation of her own, it may appear to an expectant mother that open adoption is similar to being a non-custodial parent. It is not.

Custodial visitation rights after divorce are protected by law as long as neither parent has been deemed unfit or voluntarily relinquishes their right to visit. Adoption begins with the relinquishment of *all* parental rights. All contact with the child is thereafter at the discretion of the child's adoptive parents until the child is an adult. Open adoption contact agreements notwithstanding, a mother or father who has relinquished rights is legally a stranger to their child.

Open adoption, discussed in the next chapter, needs to be approached with caution and a great deal of research into state laws. In the best-case scenario, the mother and prospective adopters work with a reputable adoption agency that specializes in open adoption and helps all parties understand the importance of ongoing openness, with professional staff available to mediate problems if they arise. There are, however, far too few such agencies and even agreements made through the most reputable agencies are *promises* that can be broken on the part of either party.

After surrendering a child, some mothers find they are not able to keep their promises to visit or even maintain contact. For some it is too painful or too difficult logically. Their decision may leave their child's adoptive parents disappointed. However, when the adoptive parent(s) choose(s) to end contact, a mother can be left not knowing if her child is alive, and well taken care of. The adopters hold all the legal power. Yet the relinquishing mother takes the far greater risk, and stands to lose more. While subject to state laws, there is

little recourse to uphold promises of openness in adoption (See Chapter 7, “Enforcement or Lack Thereof”).

Online support groups, email lists, and chat rooms are filled with brokenhearted mothers who surrendered with promises of openness that were unfulfilled. It can be argued that these are just the vocal minority. Perhaps those who are content with their arrangement tend not to post on these groups. With no statistical data on open adoption, there are no percentages. What is known is that many mothers who placed their children in an open adoption express feelings of disappointment or betrayal.

“It happens every day on the email support groups where birth mothers go to seek a soft shoulder,” says Heather Lowe, VP of CUB, in her article, “Broken Promises.”⁴² “Ladies, help. I don’t understand what’s going on. My daughter’s parents are cutting me out of their lives. While I was pregnant, they told me again and again how I would always be a part of her life. They promised lots of pictures and twice yearly visits. Well, the visits haven’t materialized and I haven’t had pictures in ten months. What is going on? Why did they lie to me? I would never have entrusted my daughter to them if I had known this was how it was going to be.”⁴³

The most extreme example is Cindy Jordan who placed her newborn daughter, Malia, in a semi-open adoption with Dr. Burns, a clinical psychologist. It was agreed beforehand that Jordan would receive periodic updates about her daughter’s health. Once the adoption was final, however, Dr. Burns failed to keep the promises of contact she had made to Jordan.

Burns published a book called *Fast Track Adoption*, however, in which she advises prospective adoptive parents how to adopt a baby “the fast and easy way” by gaining the trust of “potential birthmothers.” After reading the book, Jordan believed that the step-by-step instructions given to hopeful parents described her own manipulation by Dr. Burns. Jordan, who had been active on an Internet site for mothers who surrendered, posted

in January 2004: “I know now that all the bonding [Dr. Burns] did with me was all part of a plan...to make me feel good at the time...and to ‘ensure’ a successful candidate for placement...I feel sick...”

Jordan went into a depression from which she was not able to recover. She took her life on April 8, 2004, leaving her two teenage sons without a mother. Cindy Jordan’s online memorial site⁴⁴ speaks of another mother, identified only as “Kate,” who also committed suicide after the adoptive parents of her infant son closed an allegedly open adoption and had their phone disconnected.

While pregnant, a woman contemplating the possibility of adoption may choose to narrow down choices of prospective adoptive parents. Getting too personally involved with pre-adoptive parents, however, risks compromising the clear thinking that is necessary to make an unpressured decision. It is not a prerequisite for open adoption to have those hoping to adopt a child attend prenatal classes, or the birth. Many planning to adopt work with more than one expectant mother, and even more than one agency, at a time. Therefore, expectant mothers need not feel an obligation to anyone other than the child about to be born.

Lowe advises: “Keep adoptive parents out of the delivery room and away from the hospital. They don’t belong anywhere near the scene. This is hard for me to say, because my child’s parents were in the delivery room (at their request, not mine) and it seemed at the time to be a relatively pleasant experience, though not without a measure of awkwardness. Looking back, however, I see how it interfered with my decision-making ability....The prospective adoptive mother—no matter how wonderful she may be—is still a stranger to the newborn, who does not experience himself as separate from his biological mother until the age of two months.

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There will be time for gentle transitions into an adoptive family later, if they are in fact needed.”⁴⁵

Every new mother needs to say hello to her baby before she can know if she can say goodbye. **Loss of bonding is not irreparable; loss of a child is.** New mothers need to bond with their baby before any decision can be made about the child’s future. If the child is relinquished for adoption, the time a mother has with her child and her ability to say goodbye are all the more crucial. Prospective adopters’ presence in the delivery room or immediately afterward can cloud a mother’s decision-making process. Bonding can and will happen within the early weeks and months without any problems as it does when newborns are separated from their mothers for health reasons.

Chapter VII: **Open and Shut**



There are lies of omission and lies that are designed to deceive someone deliberately.

*There is another type of lie I call the family lie,
that can have devastating, long-term impact....
the lies many families tell to hide parentage
and familial relationships from their children
and other relatives.*

*Not just adoption secrets,
but basic family core relationships.*

Candida Bohne-Eittreim, author



One would be hard pressed to find an adoption professional today who does not agree that adoption should be practiced with honesty and openness. Contact with birth relatives is recognized as an ongoing resource to the adoptive parents for information about the child's medical, social, and cultural history. Children's rights experts and family practitioners likewise agree that secrecy creates shame and distrust and does not belong in healthy families.

The terms *open* or *cooperative* adoption are used to define situations ranging from the expectant mother being able to select the adoptive parents of her child from a photo album and profiles, to meeting them, receiving post-placement updates, to actual visits. The terms sometimes define a very specific arrangement. All too often, however, the terms are used ambiguously, such as on the web site OpenAdoption.com which gives this description: "Open adoption means that birthparents and

adoptive parents have some knowledge about one another. The birthparents know something about the adoptive parents and may even help choose them. Adoptive parents and their children know medical and genetic information about the birth family and other information that might help in dealing with the emotional issues that often accompany adoption.”

While this is called open adoption, it describes only a pre-adoption exchange of *some* non-identifying information. It says nothing about knowing or meeting one another nor what happens once the adoption is finalized.

Kathleen Silber and Patricia Dorner, authors of *Children of Open Adoption and Their Families*, wrote in 1989 that “biological parents” should be considered extended family. They describe an adoption as open when it “includes the birthparents and adoptive parents meeting one another, sharing full identifying information, and having access to *ongoing contact over the years*” [emphasis added].¹

Romanchik makes a clear distinction between semi-and truly open adoptions, stating that it is “not about the adoptive parents bestowing birthparents with the privilege of contact, nor is it about birthparents merely being able to provide information....Direct contact...between the birth family and the adopted child...is essential.”²

Agreements for ongoing contact after adoption range from informal understandings between the birth and adoptive families, to formal contracts. Written agreements specifying type and frequency of contact should be specific and fully executed by the parties to the adoption prior to finalization.

Children are not confused by legal definitions and equally enjoy visits from members of their birthfamily, as they do visits from any extended family members. Ongoing contact deescalates the child’s fantasies about who gave birth to him and any resentment he might later

have if such information was withheld. It allows the child to ask questions directly as they come up.

Open Adoption & Family Services of Oregon and Washington has released the results of its groundbreaking 2002-2003 client survey project, “Emotional Intelligence in Children of Open Adoption.”³

- 80 percent of adoptive parents and their child’s mothers reported ongoing visits between the mother and child at least once a year—seven to eighteen years after placement.
- As the amount of contact (through visits, phone calls and letters) between mothers [or fathers] and adoptive families increases, so does overall adoption satisfaction as reported by all triad members.
- Ninety-one percent of adoptive parents and their child’s mothers reported high levels of healthy collaboration.
- Ninety-four percent of the adopted children are at or above national averages for emotional intelligence. Fifty-three percent of these children are considered highly above average.
- Children who perceive strong levels of collaboration between their adoptive parents and birthparents score higher on emotional intelligence tests.

Matchmaking

Private adoption, especially those with any amount of openness, have resulted in a bizarre and unnecessary practice of “matching” couples wanting to adopt with expectant mothers. This process is quite different from what was done a generation ago when adoption agencies

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attempted to “match” children with adoptive families of similar ethnic backgrounds.

HeartfeltAdoption.com states: “A ‘match’ occurs when the birth mother and the adoptive couple are in mutual agreement. A good match is when the adoptive couple wants to adopt her baby and she is happy and willing to place her child with them.”

Some agencies counsel hopeful adopters. Dawn Friedman’s agency allowed ‘matches’ as early as the seventh month; however, they stressed that a match was not the promise of a baby, or a guarantee. They explained that there was always “a 50 percent chance that a mother will change her mind. Dawn reports that at her agency she was clearly cautioned to guard her heart and was reminded often that a baby was not hers until the papers are signed.⁴

However, many others, once matched up by an agency, facilitator, attorney, or on their own, begin to form an attachment and expectations. Being matched with an expectant mother who is “willing to” place her baby with a specific couple is often misinterpreted to mean that she “will,” despite the large percentage of matches that do not result in an adoption taking place.

Once “matched” those seeking a child to adopt are often allowed to, even encouraged, to befriend a mother during her pregnancy. Pre-birth “matching” that encourages such behavior as gift-giving and payment of expenses by prospective adopters to expectant mothers are unethical, and even potentially illegal, practices.

Consumer Advocate Jamie Court and his wife, a public interest and civil rights attorney, report what transpired after being “matched” with an expectant mother through an attorney and facilitator. The Courts report that they, “moved [the expectant mother] into the upscale Oakwood complex in Marina del Rey just blocks from the beach. We paid for groceries, toiletries, clothes, a foot spa, prescription salve for a raging skin rash, and for the drilling and filling of cavities long neglected.

After work, we took her out most nights to the Cheesecake Factory, Johnny Rockets, Marie Callender's, Buca di Beppo. Then we'd do her food shopping and errands." They fixed "the screen door of the apartment balcony. Move[d] the bed. Pick[ed] up pancake mix. Drove to the Hollywood Wax Museum."⁵

Court laments having spent \$12,000 and not being invited to the delivery for which they had "prepaid." Mostly Court was upset that the mother decided to keep her twins but blames what he calls "fraudulent adoption facilitators in California." Court refused to pay the facilitator who made the match as if it came with a guarantee that the mother, once "matched" would relinquish. His itemizing of expenses and efforts seems to imply that he felt an obligation owed to him for time and money he was willing to invest had it resulted in an adoption.

Other practices that pre-birth matching encourages is adoptive hopefuls attending a mother's prenatal classes and doctor visits and requesting (or expecting) to be present at the baby's delivery. Prospective adopters and expectant mothers have been encouraged to believe that being present at the birth of a baby will establish a bond between the infant and the parents with whom he or she may reside.

The concept of a "sensitive period" for bonding immediately following the birth, put forth by Kennel and Klaus in the 1980s, has since been modified. Bonding at birth is preferable when possible, but it is not critical; "not like instant glue that cements a parent-child relationship forever."⁶ Babies and mothers who are separated because of premature or cesarean birth do just fine. Neither parents nor child are irreparably harmed by a temporary absence from one another. "Catch-up bonding is certainly possible....The conception of bonding as an absolute critical period or a now-or-never relationship is not true. From birth through infancy and childhood, there are many steps that lead to a strong

mother-infant attachment. We have seen adopting parents who, upon first contact with their one-week-old newborn, express feeling as deep and caring as those of biological parents in the delivery room.”⁷

The thinking seems to be that if the switch-off is handled quickly enough, the baby will never notice. Lowe states: “This is patently untrue and rushing to place a child in an adoptive home does lasting damage.”

Although it has become fairly acceptable in the industry—matching, befriending, supporting, gift-giving, and being present at the birth are all unnecessary for a successful open adoption and can be seen as coercive. Doing so risks creating cause to have the adoption revoked. Getting involved in each other’s lives before a final decision is made adds tremendous pressure and imposes unrealistic expectations upon all parties. Such practices can be predatory and violate the clear intent of the law that a mother cannot relinquish her child until after it is born.

While many in this country take this practice for granted, looked at by those from elsewhere it is difficult to understand how anyone can support the practice of having prospective adopters meet expectant mothers. “I find such behaviour totally inappropriate and unethical,” says Robinson. “It concerns me greatly that prospective adopters who behave in this way are not thereby considered as unsuitable to adopt.”

The plight of those wanting a child to parent is often described as “desperate.” Someone in need of a vital organ in order to live is in a far more “desperate” situation. Yet, it is neither acceptable, ethical or legal to befriend a person in the hope that they might die and donate a heart. Nor are businesses allowed to collect fees for the purpose of making such matches.

Openness and contact can be agreed upon before the adoption is finalized and put into practice upon finalization without enmeshment into an expectant mother’s life and pregnancy during a time of great stress and confu-

sion. Birth and adoptive family members who share a child in common are “related” extended family, like step families or in-laws who become aunts, uncles, and grandparents. Ideally, in all these situations, everyone maintains a cordial relationship for the sake of the children.

Dawn Freidman describes it well: “I strongly feel that my necessary role is to facilitate some kind of relationship until Madison is old enough to manage one—if she desires—for herself. In my mind, this means pictures and updates as long as they [Madison’s mother and family] are open to them with visits as time/money/emotions allow. It also means understanding that because of the legal weight of my role, I am an all-powerful gatekeeper and so it is easier for me to step back than to ask them to always step forward....I’m realizing how accepting I am of my careful, outsider role in this. I feel a lot of the compassion for the family members who are grieving; I am very grateful for their welcome. They don’t have to like me or even care about me. I hope they do but it’s not necessary. We barely know each other now and it’s a little early to say whether or not it would be possible to have a relationship that moves beyond our shared commitment to Madison’s well-being anyway so I haven’t really worried about it.”

Enforcement or Lack Thereof

What happens when a birth and adoptive parent refuse to comply with an open adoption contact agreement? According to the National Adoption Information Clearinghouse, NAIC (currently part of the Child Welfare Information Gateway), “[M]any adoption professionals feel that a written contractual agreement between the parties to an adoption can clarify the modes and frequency of contact and thereby minimize con-

flicts. In the absence of statutory guidance, however, problems have arisen. *Unless sanctioned by law, agreements for post-adoption contact are purely voluntary and typically cannot be enforced in court*" [emphasis added].⁸

Elizabeth Samuels found that, "The potential problems are obvious when an open adoption is unenforceable."⁹

A search on the Internet turns up a seeming "fact" that seventeen or eighteen states "honor" open adoption agreements. Tracking the source of this often quoted alleged "fact" leads to an article in *The Columbus Dispatch* which quotes Marjorie Frazier, assistant director of the National Center for Adoption Law and Policy at Capital University Law School in Columbus, Ohio, as saying simply that "courts have the power to enforce open-adoption agreements between adoptive and birthparents." The article then makes the erroneous claim that "seventeen states have specific legislation enforcing open adoption agreements which bind the parties to comply."¹⁰ This is a reference to the fact that eighteen states (Arizona, California, Connecticut, Florida, Indiana, Louisiana, Massachusetts, Maryland, Minnesota, Montana, Nebraska, New York, New Mexico, Oregon, Rhode Island, South Dakota, Washington and West Virginia)—according to the National Adoption Information Clearinghouse (NAIC)—recognize open adoption and have regulations regarding enforcement of such agreements. There are important stipulations regarding these states' enforcements, however.

Maryland, for instance, allows agreements that have the mutual consent of both the birth and adoptive parents, but has *no provision for enforcement*. Nevada allows visitation to any person who had established a legal right to visit the child prior to the adoption. North Carolina also permits agreements by mutual consent, but stipulates that they are *not enforceable* and failure to comply is not grounds to invalidate consent to the adop-

tion. Ohio and South Carolina state that mutual agreements for contact are *non-binding* and *non-enforceable*. Missouri and Tennessee leave decisions about contact and visitation with birth relatives to the discretion of the adoptive parents.

The NAIC points out that open adoptions “more typically involve older children, such as stepchildren and children adopted from foster care. These children, because of their age, frequently have attachments to one or more birth relatives that would be in some way beneficial for them to maintain.”

None of this applies to an expectant mother considering placing her newborn in what she hopes is an open adoption. In fact, Connecticut, Nebraska, and New York, limit the application of contact agreements to children in foster care. Indiana limits enforceable contact agreements to children aged two and older. For younger children, non-enforceable agreements are permitted as long as the contact does not include visitation.

The NAIC goes on to state: “In general, the law *does not prohibit* post-adoption contact. Since adoptive parents have the right to decide who may have contact with their adopted child, they can allow any amount of contact with birth family members they choose, and such contacts are often arranged by mutual understanding without any formal agreement” [emphasis added].¹¹ This quite clearly leaves any post-adoption contact to the discretion of the adoptive parents. Even children who have established relationships with parents or siblings while in foster care can be deprived of them once they are adopted, or allowed such visits only at the discretion of their adoptive parents.

A group of experts was convened in 1995 by the Children’s Bureau of the U.S. Department of Health and Human Services to look into adoption with contact. Their conclusions were published as *Guidelines for*

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Public Policy and State Legislation Governing Permanence for Children, which made the following recommendations regarding open adoption agreements:

- The court may approve the agreement only if all parties, including a child over the age of twelve, agree on its provisions, and the court finds the agreement is in the best interest of the child.
- The court may approve post-adoption contact ranging from occasional exchanges of cards, photographs, and information to regular personal visits, in whatever level of detail the parties agree to and the court deems appropriate.
- Any party to the agreement may petition the court to modify the agreement, order compliance, or to void the agreement.
- The court may order compliance, modify, or void the agreement only if the parties agree or circumstances have changed, and any action is in the best interest of the child.

The most important recommendation, and the one that no state to date has violated, is:

- Adoption is irrevocable, and the voluntary relinquishment may not be set aside, even if the post-adoption agreement is modified, set aside, or parties fail to comply.

No state sees the violation of a post-adoption contact agreement as grounds to overturn an adoption unless fraud is proven.

Very few disputes over contact ever reach the courts, in fact, because mothers who surrender children for adoption seldom have the financial resources to do so. Additionally, when a contact agreement is violated, agencies that arrange open adoption require mediation first, making every effort to avoid bad publicity.

As Denise St. Clair of the National Center for Adoption Law and Policy at Capital University Law School (NCALP) notes: “... it appears that birth parents do not typically go to the expense and effort of seeking legal enforcement of agreements when the adoptive parents refuse to provide the agreed-upon contact.

“Second, you will note that most states build into the statutes a great deal of deference to the adoptive parents’ assessment of the desirability of continuing contact. Thus, I would assume most courts would be reluctant to enforce an agreement over the adoptive parents’ objections.”¹²

Of the few cases that are litigated, fewer still, if any, have the agreement of openness upheld, and only one has ever had the consent to adopt withdrawn and the child returned. The one exception on record of a revocation of surrender in an open adoption occurred in 2000, in Texas. In *Vela v Marywood*, the court ruled that the mother’s consent to adoption was “involuntarily and wrongfully procured because of the adoption agency’s assurances that she would remain in the child’s life were ‘at worst deceptive and at best vague.’” Samuels, in reviewing the case, adds there was no evidence that the mother was “ever told that the post-adoption plan could not be legally enforced,” and perhaps the most damning evidence was the agency’s admission that the post-adoption plan was an ‘empty promise.’¹³

Vela v Marywood was one rare exception to the normal outcome of such challenges and the decision was based on fraud, not on noncompliance with an agreement of openness.

The legal system’s clear upholding of the rights of adoptive parents in such cases by no means suggests, however, that promises of openness can be made and easily broken. In reviewing adoptions that were challenged in the courts, Samuels found that breaking promises of openness is one of the four top reasons that adoptions are contested. A contested adoption is

costly—financially and emotionally—for all parties. It is thus to everyone’s advantage to consider options carefully and with clarity before a consent to adopt is signed and an adoption finalized.

The law needs to ensure that when adoptions are presented as “open,” clear and factual information is presented to all parties regarding their rights in the state in which the adoption is taking place, including enforcement or lack thereof.

Open Adoption/Sealed Records

If adoption is a wonderful way to create or build a family, encouraged by state and federal governments, why do we perpetuate policies and laws that treat it as a state secret? Marcy Axness, author of the booklet *Painful Lessons, Loving Bonds: The Heart of Open Adoption* speaks for many open records’ advocates when she asks: “If we didn’t find [adoption] so contemptible, so laced with shame, why would our laws be so vehemently constructed to protect everyone from the shame returning to their doorsteps?”

Issuing a falsified birth certificate stating that the adoptee was born to his adoptive parents is state-committed fraud that encourages the continuance of lies, secrets, and unethical practices. **No adoption can be truly open if it begins with a falsified birth certificate and no access to the original.**

Not only is the name of the “parents” changed, but birth certificates, which are called “amended,” can also change the place and date of birth. Linda O’s son was issued a “Certificate of Live Birth” stating that he was born to a Caucasian man and woman, indicating the baby born to them is Caucasian, when in fact he is Mexican-American, African-American, and Portuguese. The issuance of this governmentally falsified document

places an official seal of approval for lives and familial relationships based on lies.

The falsification of adopted persons' birth certificates were criticized as early as 1971 when Harriet Fricke, a University of Chicago School of Social Service graduate, and adoption caseworker and administrator for 20 years said she could no longer go along with ". . . false birth certificates, burying the biological past . . . violating a child's civil rights".¹⁴

The certificate of birth issued to an adoptee is legally called an amended certificate, though it does not state that anywhere on the certificate. To amend means to change for the better; improve; to remove or correct faults in; rectify. When one of my sons was about three, I decided to change his first name. His birth certificate was thus amended or corrected. It shows his original name crossed off and his new name is written in above it. He cannot get a copy of his birth certificate that does not show both his original name and the corrected one. The certificate that is issued after an adoption has taken place, which is called "amended," indicates no change or alteration whatsoever.

In the 1940s and 50s, infertility and illegitimacy were shameful secrets and accepted wisdom was to never tell children that they were adopted. Many adoptive parents still think it best to withhold the truth until the child is "ready."

Although today early "telling" is encouraged, people are often adopted by those who believe it best not to disclose the truth of their child's adoption, or can never seem to find right time to do so. Sometimes, even when the child (or adult child) is ready, the parents aren't. Some deny it even when it is guessed and they are asked pointblank if they were adopted. Often aunts and uncles, cousins, and even spouses are aware of and maintain the secret. When an adoptee finally discovers the truth—sometimes on his adoptive parents' deathbed—or

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afterwards, he may feel extreme betrayal. All of this is made possible by the issuance of a falsified birth certificate which leaves the truth in the hands of those who adopt.

Those who find out in adulthood that they were adopted are known as LDAs: Late Discovery Adoptees, a term coined by Ron Morgan who maintains an email list to help LDAs deal with issues unique to them. He says of his own discovery: “Everything I knew was wrong; my name, my ethnicity, the entire tapestry of my family dynamic unraveled at my feet. I became the Fool, just after the moment captured by the Tarot. I was in free fall.”¹⁵

Although there are no statistics on the number of LDAs, Susan Friel-Williams who assists adoptees in search for their families estimates that in six months she’s heard from thirty adults who had just learned they had been adopted. The eldest was sixty-three. “The majority feel betrayed that the people they loved the most their entire lives were also lying to them their entire lives.”¹⁶

At the same time as adoption practices move forward, toward more openness, there is also a need for past adoptions to be retroactively opened in order to restore to adopted citizens the same rights as those who are not adopted in regard to their birth and medical records.

Connecticut State Senator Bill Finch, writing in support of legislation to give adoptees equal access, states. “I know how wonderful adoption is—I was adopted. Parents who, for whatever reason, cannot take care of a child give that child to other parents who can give him a better life. But secrecy poisons the adoption system.”¹⁷

Judge Wade S. Weatherford, Jr., Seventh Judicial Circuit Court, South Carolina, in ruling on an adoptee’s petition to gain access to adoption records, noted: “Mankind is possessed of no greater urge than to try to

understand the age-old question: ‘Who am I?’ ‘Why am I?’... Those emotions and anxieties that generate our thirst to know the past are not superficial and whimsical. They are real and they are ‘good cause’ under the law of man and God.”

Bastard Nation advocates this “good cause under the law of man and God,” noting that in Scotland adoptee records have never been sealed and they have been open in England since 1975. Australia, Argentina, Germany, Mexico, Netherlands, South Korea, and Venezuela are only a few of the nations that do not prevent adult adoptees from accessing their own birth records.

Robinson observes: “There is no justification for preventing those who have been affected by an adoption from receiving the relevant information regarding their family members. An adoption is a legal arrangement. It does not change the actual relationships between people, only the legal rights and responsibilities. If a couple marry and have a child, for example, and then divorce, the legal arrangement of the marriage no longer exists but, regardless of that, each party to the marriage is still a parent to the child.”¹⁸

Who Opposes Equal Access?

State-by-state efforts to restore equal rights to adoptees have been slow. As legislation is presented in states to reverse outdated laws that deny adopted people equal rights, the National Council for Adoption,¹⁹ American Center for Liberty and Justice, and the Heritage Foundation oppose it. The National Council for Adoption (NCFA), formerly the National Committee for Adoption, is the single largest lobbying group opposing equal rights for adoptees.

The organization was founded in the late 1980s as an outgrowth of the efforts of the Edna Gladney Home in Fort Worth, Texas, to defeat the open records provisions

of the Model State Adoption Act proposed in 1978. Though many agencies have since left as adoptions have become privatized, the NCFA still represents Gladney Center and the Latter-Day Saints Social Service and adoptive parents who are politically powerful and influential.²⁰

Some opposition to adoptee rights comes from religious organizations convinced by pro-life activists that women will only relinquish babies for adoption if they are assured of their anonymity. Their claims are based on unfounded fear that allowing adoptees access to their birth records will increase the number of women choosing to abort a pregnancy rather than place the child for adoption. In fact, states that have restored adoptee rights have seen no increase in abortion rates.

MaryAnne Cohen, cofounder of Origins,²¹ birthparent, and adoptee rights activist says: “Some pro-lifers worship the fetus, deify it in some sense.... These are the ‘Adoption, Not Abortion’ bumper sticker crowd. They cannot see the difference between the adult adopted person and the fetus.”

“Adoption not Abortion” as a slogan, says Cohen, implies that “[a]doptees should be grateful they were born at all, and pregnant women are just waiting to abort if they think their child will be able to find them years later.”²² “Adoption not Abortion” totally ignores the option of single parenthood and incorrectly assumes that parents who eventually decide upon relinquishment of their child have considered abortion, or that they are the only ones who considered it.

Pro-choice proponents are also concerned about the rights of mothers who surrender. Their belief is that women who surrender children for adoption were promised and expected anonymity. Pro-choicers see adoption as an extension of a woman’s reproductive rights. Both arguments ignore the fact that adoptions cannot take place until after the child is born, long after

any “reproductive choices,” including abortion, are an option.

Cohen continues: “The opponents of open records on both the Right and the Left have tried to connect open records for adopted adults to issues of abortion and reproductive rights. This is a mistake and misuse of words, as all issues of reproductive rights cease once a living child, a separate individual with citizenship and rights of his own, is born. Adoption is *not* a reproductive rights issue, nor is family preservation, any more than child abuse, breastfeeding, daycare, or decent schools are, although all these issues are important and relate to children.”

“Once an adoption takes place, the reproductive part is done, the child is born and a separate person. There is no longer one person, the mother, and one legal non-person, the fetus, but two individuals with their own rights that have nothing to do with reproduction.....Reproductive rights issues are birth control and access to it, abortion, and perhaps infertility treatments and assisted reproductionMothers do not have unlimited ‘choice’ concerning what they do with their children once they are born, nor do they have rights that supersede those of that child when he or she becomes an adult.”²³

While there is debate as to whether a fetus is a human life or not, is there any question that a child, after it is born, is a human being with rights? Why should the decision one’s mother made hours, days, months or years *after* one’s birth, make that person less deserving of equal rights? Should one group of people be deprived of the same rights all other citizens enjoy, ostensibly to protect the rights of another?

So adept, however, are the lobbyists who weave and sell their lies on behalf of adoption brokers, and so often have these falsehoods been repeated, that they are accepted as fact by women’s and human rights

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organizations, and legislators have been swayed to base policies on these misconceptions. Those who represent adoption businesses have succeeded in convincing the American Civil Liberties Union (ACLU) in some states that allowing adoptees access to their birth records would deny women their right to privacy.

A “right to privacy” or confidentiality, however, protects records from *public* scrutiny. There is nothing inherent in any argument in favor of privacy or confidentiality for mothers who have relinquished that supports anonymity from her own child. Nor does such an argument justify one individual’s right to “privacy” overriding another’s need to know facts that apply to them. Do some local ACLUs believe these lies and misunderstand the difference between privacy and confidentiality from the public and anonymity from one’s offspring? Or are they simply concerned with protecting the rights of the paid client in adoption—the adoptive parents—and using the privacy of surrendering mothers as a smokescreen, as suggested by Larry Watson?²⁴

The Uniform Adoption Act (UAA) was created in an attempt to establish uniformity among the states regarding adoption practice. Two attempts by the American Bar Association and one attempt by the U.S. Department of Health and Human Services to draft a model state adoption act failed. The current UAA was adopted by the National Conference of Commissioners on Uniform State Laws (NCCUSL) in 1994. It was approved following five years of intensive discussions with the entire adoption field and has been condemned by many national organizations, including:

1. Child Welfare League of America
2. National Association of Social Workers²⁵
3. Adoptive Families of America²⁶
4. Catholic Charities USA²⁷

5. American Adoption Congress²⁸
6. Concerned United Birthparents²⁹
7. National Adoption Center³⁰
8. Adoption Exchange Association³¹
9. Children Awaiting Parents³²
10. NY State Citizens' Coalition for Children³³
11. Bastard Nation³⁴
12. Internet Adoptees' Mailing List
13. Joint Council on International Children's Services³⁵

These groups are outraged at the UAA's proposals to:

- Seal adoption records for 99 years.
- Criminalize searching.
- Shorten revocable consent periods to a mere eight days from the *birth* of the child (not from the relinquishment).
- Create a muddled mutual consent registry that ensures that no exchange of information, even between willing parties, will be made.
- Allow the surrender of a child without the consent of the father if the mother states that his whereabouts are unknown or that she does not know the father's identity.
- Make pre-placement evaluations of prospective adoptive parents easier for couples to adopt rather than ensure that the best interest of the child are being served.

The UAA, like all model acts, can be introduced and passed in whole or in part by the state legislatures. To date, the UAA has been roundly rejected by the states. It is supported by the National Council for Adoption and a handful of its supporting agencies, including the NCFA's parent agency, the Edna Gladney Home,³⁶ one

of the oldest and largest adoption agencies in the nation.³⁷

A Promise or a Lie?

The falsification of birth records in adoption began with baby brokers such as Georgia Tann (Chapter 1) and continue to provide cover for such past misdeeds as well as for present-day baby brokers who operate far more easily under the veil of secrecy and lies that sealed records provide.

Explanations—or rationalizations—for falsifying a state-produced document and permanently sealing the original birth records were that it was done to protect the adopted person from the “stigma” of illegitimacy: A problem which has long since lost its necessity. Others who have researched the origins of sealed records, such as Katrina Weger, found that: “Sealing the adoptees’ birth certificates was intended to ensure the adoptive parents the same rights to parental autonomy and family privacy that the birthparents once had.”³⁸

Samuels states that “when adoption records around the United States were closed to inspection by the parties to the adoption as well as the public, they were closed to protect adoptive families from possible interference or harassment by birth parents, *not to protect birth parents’ privacy*,” [emphasis added]³⁹

Larry Watson concludes that not only were they sealed to protect adoptive parents, but many adoptive parents, support efforts to block having them opened:

“The group advocating to maintain sealed records are, for the most part, members of the “advantaged” class—affluent adoptive parents. As members of this group they carry a positive social construct and are thought to be deserving. They are solidly a part of the middle to upper class. Their inability to have biological

children evokes empathy and their decision to adopt is viewed as commendable.”⁴⁰

Adoption records were never sealed to protect mothers who surrender—or those adopted—and do not exist now for their protection. Surrendering a child for adoption relinquishes *all* rights and gives the mother who relinquishes *nothing* in return. A relinquishment of parental rights is a one-sided contract that violates contract law and in any other business negotiation would be determined unethical. Contract law requires a mutual agreement with an offer and acceptance, consideration, and contractual intention. A contract requires that both parties have some obligation to fulfill to the other, even if it is payment of one dollar to buy your mother’s house or give your car to your brother. When a parent relinquishes their parental rights, they get nothing in return—no compensation whatsoever for her labor, her loss, or the commodity she gives to others, no promise either of contact or confidentiality. She receives no financial compensation, though those arranging the transaction are paid fees. It is a contract that mothers enter into, often with no legal counsel (or legal representation paid for by those with a conflict of interest), and often she does not even receive a copy of what she signed. None of that would be allowable in any other transaction.

The only promise made to mothers considering the placement of a child for adoption is that adoption will insure their child a “better life.” Some agencies additionally made promises that the child would be placed with families of specific religious backgrounds, or with “professionals,” etc. As many of those promises were broken as were kept and no promises were made to fathers or siblings.

A mother of a child surrendered in 1979 said of the very troubled son who found her when he was 22 and

died in an apparent suicide at 27: “I think my son would have had a better chance in life not being adopted. I was devastated and in shock for a couple of years in finding out how much he suffered and *hated being adopted* and the sacrifice I was made to do was for nothing and, in fact, to his detriment in many ways.... They told him when he was about three [that] he was adopted. I can tell with all he’s told me that it all affected him so very deeply. They had a daughter born to them when he was five. This was a traumatic time for him.... I do feel that they loved [my son], but the ‘match’ was not good....”⁴¹

The “better life” that mothers were promised their children would have through adoption does not include them being denied the same rights as non-adopted citizens. Relinquishing mothers are not informed that their child will be issued a false birth certificate and be denied the right to know the truth of their lives, no matter how old they are, in most states. Many mothers—nearly half of those in one survey⁴²—surrendered with the belief they would be able to meet their children when the child reached majority. Additionally, the vast majority of women surrendering today will not do so without a promise of openness.

Adoption experts have long recognized that alleged promises of anonymity are untrue. In 1980 the director of the North Carolina Division of Social Services said, “Having talked with many birthparents in recent months, I have come to believe, first, that the birthparents were not interested in perpetual anonymity but rather that we, the agency representatives, have thought they were interested in this due to the stigma attached in past years to the out-of-wedlock pregnancy.”⁴³

Doris H. Bertucci wrote in 1987: “From the data being reported...there is good reason to believe that when they surrendered their children, few mothers understood the full meaning of the confidentiality agencies now say they implicitly promised them. Are agencies

forcing on these mothers the ‘right’ to a confidentiality they never intended to have and may not wish to maintain with respect to their children?”⁴⁴

In November 1998, Oregon voters passed Ballot Measure 58 restoring adoptees’ right to access to their original birth records. As in many other states, the measure was challenged as violating “birthmother privacy.” Mothers spoke out, however, in support of the bill allowing adoptees access to their records. More than five hundred mothers who had placed children for adoption added their names to a full-page ad in Oregon’s largest newspaper, the *Portland Oregonian*. The Oregon Court of Appeals upheld the measure and the United States Supreme Court refused to review it. It became effective May 31, 2000.

More than seven thousand adoptees in Oregon have received their original birth certificates since then. The *Oregonian*, which opposed Ballot Measure 58, has not been able to report a single case of a mother who regretted being contacted by her child. Critics of the law admit that it has been successful.

Nationally, adoptees who initiate a search report being welcomed by their mothers ninety-seven percent of the time. An online petition for birthmothers who support open records, entitled “No Confidentiality Promised Birthmothers,” stating: “We the undersigned, do declare that we are Birthmothers who placed a child for adoption and that we were NEVER promised confidentiality by ANYONE involved in the adoption process nor did we ever want our identities to be temporarily or permanently kept from our child!” was up to seven hundred and seventy-four signatures as of November 1, 2006.⁴⁵ An online survey of more than four hundred random parents who had surrendered children for adoption (including those whose surrendered child had been conceived as a result of rape), ninety-nine percent of

mothers who surrendered supported opening adoption records.⁴⁶

It is true, of course, that some mothers who surrender children to adoption do not want to be found. For instance, in New Hampshire, where adoptee rights have been restored, seven thousand parents who surrendered have registered with the state, and *eleven* have asked *not* to be identified. Laws are generally enacted to protect the majority, not the few. Even if mothers believed they had some legal protection, laws change. In Connecticut, for instance, adoptions were open until 1975, then retroactively sealed, as they have been in many states since the 1940s. These changes were made without considering the effect on adoptees' expectations of being able to access their records.

Whatever promise a mother believes might have been made to her, her child never agreed to it. How can a lawful promise be kept that denies another person his due rights?

Whose Rights?

Original birth records are not destroyed when adoption takes place. Though "sealed," they are available to all agency employees and to the courts. Many adoptive parents have a copy of the consent to adopt or other court records that contain the name of their child's parent(s).

"He was twenty-two when he decided to make contact," one mother describes of being found. "His adoptive parents did indeed have my identifying information—my name, address, even my SS#. He simply found all the info in a file cabinet in his home. I don't think they were aware that he was planning on making contact, until after he did. His first contact with me was by phone, and I was so happy—like the euphoria of the day a child is born, but beyond that."⁴⁷

In the post-Internet era, most anyone can be located. Reunions between adoptees and their mothers are seen on many talk shows and in new stories. Thus, maintaining sealed records in violation of adoptees' rights provides a mother hiding a secret no more assurance than opening the records. Even in states with sealed records, an adoptee can seek a court order to have his records unsealed. Though few such requests are granted, even for medical need, no (birth)parent consent is required for the records to be opened, because no promise was ever made that such records would *not* be released to the adoptee. Changing the laws would simply allow adoptees access their records without a court order, but would not release the information to the public.

While the vast majority of mothers—and fathers—are welcoming, some mothers, when found, have refused all contact, but the adopted person has still been able to locate other family members who welcomed them into the family with no ill effects to anyone. There are sufficient legal remedies in place to protect all citizens from harassment and stalking. Additional laws that pertain only to those adopted and their parents are unnecessary and discriminatory.

Other mothers and adoptees have been able to be in contact with one another and maintain the relationship confidentially between them, keeping it from those they choose to keep it from.

Maintaining sealed adoption records does not “protect” mothers—or adoptees—from shame; it legitimizes it.

There are no other circumstances in which laws protect lies. We do not protect a father's right to keep paternity a secret. Instead we pursue men to own up to their paternity, often making them pay child support. Maintaining secrecy in adoption—and using the “protection” of mothers' rights as an excuse to do so—validates single pregnancy and relinquishment as something to be ashamed of.

Chapter VIII: **Father Factor**



*There is very little in the clinical literature
about birth fathers,
although it is routine to decry their absence
in the literature.*

Mary O'Leary Wiley and Amanda Baden, psychologists¹



A father's consent to the adoption of his child is required if the child was conceived or born during his marriage to the mother, even if the marriage ended in divorce or annulment. Considered by many patriarchal laws of "ownership," there is the claim that marriage recognized a commitment to undertake parental responsibilities. Under this assumption of responsibility, men are made to pay support for children born during marriage, even when DNA proves the child not to have been fathered by them.

Some state statutes now recognize the rights of unmarried fathers in the wake of Supreme Court rulings recognizing constitutional rights of parents in certain circumstances.² Thus, when a single mother is negotiating the adoption of her child, it is required that she name the father so he can be notified. However, women can claim they do not know the father's name and some state courts rule in favor of a mother's right to non-disclosure, particularly when the mother claims fear that the father of her child will harass her. *The question is how to protect the rights of mothers with legitimate concerns, while*

allowing interested fathers to defend their claims and demonstrate their commitment to parent.

In order to protect the best interest of the child, the time period in which the father has a right to make such a claim, in order to stop or reverse an adoption, becomes a crucial factor. Many fathers do not know that there is a pregnancy, much less a child being placed for adoption, until a substantial amount of time has passed.

In a Louisiana Law Review of fathers' rights versus a need for timely surrender, Jeanette Mills calls for "procedural safeguards that recognize a birthfather's interest in a potential relationship with his child." Mills recognizes the importance of "freeing a newborn for adoption as soon as possible in order to secure a stable family unit for the child" and recognizes the need to balance these competing interests has proved to be a difficult task.³

Many states believe that the way to balance these rights is the creation of state registries to notify fathers of an impending adoption. Known as Putative Father Registries (PFR) they are intended to give fathers the opportunity to show that the adoption may not be in the best interest of the child. According to the National Council for Adoption, about twenty-five states have such registry regulations. However, Mary Beck, a University of Missouri law professor and parental registry expert, put that figure at thirty-five during testimony before Virginia legislators in September 2005. Numbers vary because some include paternity claim databases, which differ from Putative Father Registries.

Whatever the number, Putative Father Registries are becoming law in one state after another. Some state PFRs require fathers to claim paternity; in others, just the possibility of paternity is sufficient to register. The deadline for registering may be between five and thirty days after birth, or any time before an adoption petition is filed. Some registries exist only to notify fathers to relinquish their rights so the adoption can proceed.

The New York State registry requires an adoption petitioner, usually an attorney representing adoptive parents, to give notice to fathers who had been adjudicated as fathers, identified on the birth certificate, identified by the mother in a sworn statement, married to the mother before the child was six months old, or had lived openly with the child and the mother. Thus in New York, only fathers *not* fitting any of these categories are required to file with New York's putative father registry to receive notice of the adoption.

In most states with registries, however, men who believe they may be the father of an unmarried mother's child must preserve their right to contest the child's adoption by registering with the Putative Father Registry. The registries require a would-be father to notify the state of his name and address and the names of the mother and child, if already born. Prospective adoptive parents must then search the registry for the names of the mother and the child. If the search reveals a registered father, the attorney or agency representing the adopters is required to provide the father legal notice of the adoption at the address he provided. The father can then come forward to assert or to terminate his parental rights. Some states have requirements *in addition to* registering.

To its supporters, the law carefully balances a single father's parental rights while protecting the mother's privacy and the child's best interest. It provides a clear demarcation of responsibility, and allows children to be adopted and essentially dismisses the possibility of a father appearing later to claim the child. Martin Bauer, president of the American Academy of Adoption Attorneys, claims: "Registries can protect men against birth mothers who won't disclose the father's name or actively lie about his identity." Cases presented in the following section ("Fighting for Fatherhood") indicate this is not always the case.

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Critics contend that no matter how well intentioned Putative Father Registries may be, they are far from widely known. They support their claim by the fact that just eighty-nine fathers, less than one percent of eligible fathers, registered for Florida's databank in 2005. Although ninety-seven thousand children were born to single women, only sixteen men registered in 2003.

Advocates for fathers' rights, such as Erik L. Smith, believe that fathers' registries are not a totally bad idea if they are widely advertised. Smith takes particular exception, however, to states that require registration *in addition to* complying with other factors like being named on the birth certificate. It is inconsistent with common sense, Smith contends, for anyone to think that if their name is on their child's birth certificate that anything else would be required of them before their rights as the identified parent of that child are terminated.

Jeanette Mills found that the burden of identifying and locating the father by merely scanning a registry to see if a father has taken action does not, however, constitute an effort on the part of the state to "locate" that father.

Even if registered, it is extremely difficult for those planning to adopt to find and match a father to the child they plan to adopt. The registries are state by state, making a registration meaningless if the father or mother has moved, or if the baby was surrendered for adoption in a different state, sometimes specifically to avoid a challenge. Men would have to update their registration anytime they moved. In our mobile culture, and with mothers able to place their babies for adoption in any state, the task is daunting to impossible.

Carol Sanger of Columbia Law School says that registries reflect a prevailing assumption that unmarried fathers are irresponsible. "If we want registries to mean anything," Professor Sanger said, "we'd have to teach

them in every sex education curriculum in every school, and publicize them everywhere.”⁴

Registry requirements also seem to assume that fathers do not care and/or do not matter in the lives of their children. Pertman, executive director of the Evan B. Donaldson Adoption Institute, a nonprofit research and education group, says PFRs are “all smoke and mirrors. How can registries work if no one’s heard of them? And it’s just not reasonable to expect that men will register every time they have sex.”⁵

Jon Klaren, vice president of Concerned United Birthparents, is one of many men who was unsuccessful in his attempt to contest the adoption of his son. “Instead of Putative Father Registries, fathers should be given timely notice by personal service of summons. Period. No shortcuts. In this age with varied forms of effective birth control (not just condoms), it is reasonable for a man (or woman) to believe that pregnancy did not result from sex.

“Putative Father Registries presume that the father knows about the baby *and* that the mother is intending to place the child for adoption. They also perpetuate the myth that birth mothers have such frequent sexual encounters with indiscretion that they cannot identify or locate the father, when that is pretty rare.”⁶ Klaren and others contend that terminating constitutionally protected parental rights should be more difficult and, therefore, worth the extra effort and cost.

Klaren continues, “If putative father registries must exist, then they should be widely publicized, and there should be a duty on those adopting or placing a child for adoption to inform the father about the specific steps he must take to protect his interest in keeping and raising the child. In too many cases, the father’s ignorance of the registry is exploited.”

Mills concludes:

Although it appears to be a national trend to enact statutory schemes that expand the grounds for dis-

pensing with a father's required consent in order to expedite the process, [I] do not believe this to be the answer to the problem. Such legislative maneuvering merely shifts the problem from an issue of timely surrender to a risk of annulment of a final decree if fraud is later discovered.

A scheme that weighs too heavily in favor of early release of a child for adoption could result in dissolution if the requirements of consent to and notice of the adoption have not been met. Thus, the goal of any statutory scheme should be to create procedures allowing a father who is interested in his child to have a role in the adoption process while simultaneously expediting the rights of fathers who lack such an interest.⁷

Fighting for Fatherhood

In several states, fathers are challenging rulings based on PFR regulations that strip them of their parental rights because they weren't registered with a state databank or registry. Two of these cases are in Florida.

Florida: If the father is registered in Florida, he is given notice of the potential adoption. He then needs to still meet additional requirements, including having provided "fair and reasonable" financial support during the pregnancy and shown a willingness and ability to care for the child.

The son of a Marine sergeant was adopted in Florida without consent of the sergeant, who was stationed overseas. The Marine, identified in court proceedings as M.D.M, planed to marry his girlfriend, but was shipped to Okinawa, Japan, shortly after she became pregnant. The mother had another man sign the parental consent papers and the adoption proceeded fraudulently.

“I lived in Florida for two years and I sure as hell didn’t know about this stupid form,” said the Marine. “It needs to be changed.” The child’s mother died shortly after the adoption. Her sister is supporting M.D.M.’s custody battle.

Lynn Waxman, an attorney for the adoptive parents of M.D.M.’s child, claims, “It’s very upsetting to somebody who has adopted a child and done everything right. Fraudulent conduct by the mother is not grounds to vacate an adoption.” Perhaps a more important consideration might be if it is a child’s best interest to be deprived of his father and a father his son? Contradicting those who claim the purpose of PFRs is to protect fathers’ rights, Waxman said the Florida registry was “meant to spare adoptive parents the trauma of potentially losing a child they’d raised.”⁸ Are PFRs then created to protect fathers, adoptive parents, or the right of children to live with a willing and able parent?

In another Florida case, Jeremiah Clayton Jones’ former fiancée hid her pregnancy from him. Jones learned of the pregnancy from an adoption agency attorney seeking Jones’ termination of parental rights. Jones would not agree to the adoption wanting instead to marry the mother of his child. Jones filed a paternity suit and claims the attorney representing him in that suit did not tell him about the registry before the mother put the child up for adoption.

“Many people perceive [adoption agencies] as a charity—they’re doing good, they’re placing these needy children,” said Jeremiah Jones. “But this is a business. Nothing more, nothing less.”⁹ The attorney for the agency who placed Jones’ child, Jeanne Tate, said: “It’s not your job to educate your adversary on how he was to protect his rights.” But, she said her agency still looks for birth fathers whether they are registered or not. “Jeremiah Jones did everything he could reasonably do to establish a relationship with his child,” she said. “It’s

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just inconceivable that the government can take away his child because he missed a filing deadline,” said Tate¹⁰

Susan Stockham, a Sarasota adoption attorney and Florida Adoption Council member has said of the Florida PFR: “This is the best kept secret in the state of Florida. “It’s funded with zero dollars.” In fact, the state legislature has never funded the Florida registry, despite statutes calling for information about it to be included in health classes at public schools and made available when people renew their drivers’ license.

The Florida law requires the Department of Health’s Office of Vital Statistics to create registration forms, and “within existing resources,” make them available at health and social services agencies, on web sites, and in circuit court clerks’ offices.

“Our job is to make it available, to have it available to any father who wishes to apply,” Florida Deputy State Registrar Ken Jones said. “We definitely try to do that.” But there are only two or three employees who work on the registry, all in Jacksonville, according to Ken Jones.¹¹

Jeremiah Jones is challenging the law in a Florida appeals court, saying it violates due process rights under the state and federal constitutions. Yet similar laws have withstood legal challenges, including a New York law upheld by the U.S. Supreme Court in 1983 in *Lehr v. Robertson* (1983),¹² which established the constitutionality of putative father registries.

Additionally, Dan Houlihan, a former Butler County Children and Youth Services attorney was suspended from the practice of law for four years in April 2006 by the Disciplinary Board of the Pennsylvania Supreme Court. The most serious of the accusations involved the allegation that he forged the signature of a Florida man on a document indicating the man had received proper notice of a June 2002 hearing in Butler County to termi-

nate his parental rights. Houlihan, who had practiced law since 1982, was not criminally charged. The man didn't attend the hearing and his rights ultimately were severed, freeing up the child for adoption by the mother's new husband.

New York: In *Lehr v. Robertson*, the single mother broke up with the father of her child and married someone else after the child was born. Although the father had lived with the mother before the birth and visited her in the hospital when the child was born, he was not named on the birth certificate and paid no support, currently required by New York law.

When the child was over two years old, the stepfather—unbeknownst to the natural father—petitioned to adopt the child. The natural father filed a paternity action in another county. Meanwhile, the adoption court ordered the adoption after searching the registry and finding no one listed. Only then did the father learn of the adoption petition. He petitioned to stay the adoption pending the determination of his paternity action, but the court denied his claim because it had already ordered the adoption. The father then petitioned to vacate the adoption, arguing it had been obtained in violation of his due process and equal protection rights. The trial court denied his petition, and the New York higher courts upheld the denial.

The U.S. Supreme Court held that the New York law did not violate the father's due process right because, despite lacking a substantial relationship with the child, the right to receive notice was completely within the father's control. He needed only to mail a postcard to the registry. *The father's ignorance of that requirement was not a sufficient reason for criticizing the law itself, according to the decision.* The father's paternity action did not show sufficient interest because the statute did not specify a paternity action as an alternative method for receiving notice. The law did not violate the father's

equal protection rights because he had never established a substantial relationship with the child. In those circumstances, the state could accord the parents different legal rights.

Florida and New York are not the only states in which fathers are challenging their loss of custody because of failure to register.

New Jersey: David Archuleta knew his former girlfriend was pregnant in 2001, but she told him the baby was stillborn. Without his knowledge, she then traveled from their home state of Colorado to New Jersey to place their baby for adoption with Children of the World. Archuleta learned a year after the fact, even though New Jersey's adoption agencies are required to notify a child's father before the adoption process can be completed. The state is also obligated to search for such a parent when an adoption agency has been told that one has been identified. Officials are calling it a "mistake" as Archuleta's battle for custody ensues.

Arkansas: The State Supreme Court ruled on March 10, 2006, that a woman who has had no contact with the father of her baby since the night the child was conceived does not have to notify the father or receive his consent before putting the baby up for adoption.

The case was brought before the court by Rusty Wayne Escobedo who proved paternity by a DNA test, but was not allowed to stop the adoption of his daughter. Escobedo had a brief relationship with Misty Ford in March 2004 which ended without him knowing that she had become pregnant. Ford gave birth and relinquished her parental rights, stating the father was unknown and consented to the child's adoption.

Escobedo was served a summons and petition for adoption, and was subsequently told that the DNA test determined that he was the biological father. He filed a

petition asking that the adoption petition be dismissed and that he be granted primary custody of the baby. But the adoption petition was approved and Escobedo's petition for paternity dismissed.

Arkansas law requires that men must register as the father of the child before they can be notified if a child, believed to be theirs, is adopted. Escobedo, however, never had the opportunity to register as a putative father before the adoption because he hadn't known that Ford was pregnant or had given birth until after the adoption process had begun.

The Supreme Court rejected his arguments, saying state statutes do not require a biological father to be notified if he has not "legitimated the minor." Justice Jim Gunter found that filing "the petition for paternity over a week after the adoption hearing does not sufficiently 'indicate his interest and willingness to confer legitimacy on the child,'" Gunter continued.

In a dissenting opinion, Chief Justice Jim Hannah said Escobedo had not been given enough time to get to know his daughter before the adoption hearing. Hannah said common law principles concerning the natural rights of parents had been ignored, and that the adoption hearing to determine whether Escobedo had to consent to the adoption "improperly turned into a hearing on his fitness as a parent."

North Carolina: Pernell Ingram is fighting the North Carolina Supreme Court for custody of his daughter who is in California. The mother of Ingram's daughter told him she had a miscarriage.

In 2003, while Ingram was grieving what he believed to be the loss of his child in utero, he learned he was a father when a sheriff's deputy knocked on his door with a summons for him to appear in court on the matter of Samaria Gabriel Robinson. A paternity test later proved that he was indeed Samaria's father.

The child's mother, unbeknownst to Ingram, lied about the miscarriage and placed their baby for adoption with A Child's Hope, a private adoption agency in Raleigh. She told the agency that she had been raped by an unidentified man. The agency placed the child with a couple in California after running a notice in *The Chapel Hill News*, alerting the allegedly unidentifiable father that a judge would terminate his parental rights if he didn't challenge the adoption.

As of this writing Ingram has only seen photographs of his now four-year-old daughter. As the case meanders through the legal system, it is not known if the adoption has been finalized. Ingram's attorney reported that California law might have allowed the couple raising Ingram's daughter to adopt her even if the termination of Ingram's parental rights hadn't been concluded.¹³

Is speed really the highest goal in adoption? Are the best interest of the child served by rushing? Does it serve the best interest of children in the long term to be deprived of parents who are willing and able to raise them?

When a mother wishes her child to be placed for adoption, and the father of the child does not agree, Family Court is the place for such conflicts to be resolved based on the fitness of the two parents, separate from—and having precedence over any consideration of—any non-relatives attempting to adopt the child.

Chapter IX: **Preserving Parenthood**



Nothing is more important to our shared future than the well-being of children.

For children are at our core—not only as vulnerable beings in need of love and care, but as a moral touchstone amidst the complexity and contentiousness of modern life...

Hillary Rodham Clinton, *It Takes a Village*



Adoption legally dissolves one family to create another, often moving children from poor to wealthier families. While in many cases an upward class movement provides some advantages a child may not otherwise enjoy, it is not in itself reason to cause permanent family separations.

There are many ways to ameliorate poverty and provide resources for single mothers and struggling families without removing their children. Many expectant young mothers need relatively little support for a short period of time to maintain their family. The following are personal examples of the limited help required to preserve a family.

As cofounder of Origins, I was contacted by a social worker who located me through the self-help clearing-house. She asked if I could speak to a woman who needed help placing her child for adoption.

A young woman soon arrived at my home. Kathy seemed to be in her first trimester, but I quickly learned that she had just given birth. As we talked, she cried,

expressing her inability to keep her child. Her problems: lacking a stable home and job, all seemed temporary, solvable, and unrelated to her ability to parent.

I asked her what she wanted to do. Kathy sat with her head slumped to her chest and said, “I have to give him up for adoption.... I have no place to stay.... and....” she sobbed.

I reached over, placing my hand under her chin, I gently lifted her head so I could make eye contact with her, and said again: “What do you *want* to do, not what do you think you *should* do?”



Kathy stopped crying and looked at me in amazement, and said; “I want to keep my baby...but I have no place stay... and...”

I said: “You are here now. You have a place to stay.” Kathy called Bethany Christian and told them she was coming to retrieve her son from foster care. Kathy and her son stayed with my family for approximately a month. Two years later, I was invited to Kathy’s wedding.

Another pregnant young woman stayed with us after her mother kicked her out. As soon as she gave birth and her mother saw her grandchild, she relented and took them both back in.

One of my foster children was a teenage adoptee who had been abandoned by his adoptive mother after the death of his adoptive father. I helped reunite him with his birth family.

My children became accustomed to coming home from school and finding a houseguest or new “sibling.” They never complained about being asked—even in the middle of the night—to bunk up in the same room and

give one of their rooms to whoever needed it. It taught them charity and compassion.

“Melany,” the daughter of a friend, was a troubled youth in and out of juvenile detention and drug rehab starting when she was just twelve. Her son was born in the midst of her drug addiction, and spent his first years in and out of foster homes as caseworkers and judges gave Melany every opportunity to recover. She tried, but repeatedly failed drug tests.

After her son had been with one foster family for several years, they sought to adopt him. Melany visited him regularly and did not want to let him go, but she had run out of options and social services was getting ready to involuntarily terminate her parental rights. At this point, I suggested she consider making a Solomonic decision and negotiate an open adoption while she still had the opportunity—before the state permanently revoked her rights. While not a perfect solution, with no guarantees that the adoption would remain open, it seemed the lesser of evils at this juncture. The foster parents were older and of a different race than Melany and her son. If her rights were involuntarily terminated, the state could decide to move him to a different home once again, which would be devastating for the child and Melany would risk loosing all knowledge of his whereabouts and well-being.

The foster parents agreed to an adoption with liberal visitation and because of their age, signed a written agreement giving custody to Melany if either of them became incapacitated or passed away.

Her son’s foster parents became very loving adoptive parents who encourage openness. Now in recovery, Melany visits with him often, and brings his little sister. Melany has been working steadily and is purchasing a house. This is another way of preserving a family.

Obviously, not all of us are in a position to provide temporary housing for indigent mothers, even with food stamps and other government assistance. States can be encouraged, however, to create programs which assist families in ways that preserve their integrity.

These anecdotal vignettes illustrate the possibilities of providing state-assisted foster care for both a mother and her child, with the goal of allowing mothers time to make an unhurried life-altering decision.

Little Lisa

In November 1987, one of the country's most horrific child abuse and murder cases occurred in New York City. Attorney Joel Steinberg's abuse and murder of the child called Lisa has been called "one of the most high profile cases in the 1980s."

Headlines describing drug abuse and years of Steinberg's beatings and torture of Hedda Nussbaum and Lisa called their home a "House of Horrors." A detailed account of the adoption, the abuse, murder, and trial has been written by Mark Gado, a detective with the City of New Rochelle and is available at Crimelibrary.com.¹

Lisa was quickly identified as having been "illegally adopted." My heart ached for the mother of the slain child. I wondered if her mother knew what had happened to her child. Mothers called me expressing horror, dread, and anxiety imagining such unthinkable abuse happening to an adopted child. The comfort that each of us had done the "right" thing and that our children had a "better life" was shattered as many of us felt the possibility that this could have been any one of our children.

Dr. Sarosi, who delivered Lisa, had assured her mother that he knew of a wonderful couple to adopt her child. Secrecy and the prevalence of private adoption arrangements allowed Sarosi to then give Lisa to Steinberg, who never filed for an adoption.

I helped organize a memorial candlelight vigil from Lisa's former home in Greenwich Village, New York, to her school and wrote letters to newspaper editors in an attempt to raise awareness of problems inherent in private adoptions.

Soon it was reported that Lisa would not be buried until New York City, which had taken custody, found her mother. I called the Manhattan District Attorney's office to offer assistance finding Lisa's mother. While that was not necessary, I was asked if I would speak to the family of the other child who had been found in the Steinberg home. The 18-month-old known as Mitchell had been found tethered to a table leg, filthy, with a bottle of rancid milk. I offered assistance in talking to the family of the toddler. Shortly, Graceann, Mitchell's grandmother, called me.

Her daughter, Nicole, had successfully hidden her pregnancy. Graceann did not know she was to be a grandmother until eight hours before the baby was born. The doctor she brought Nicole to—Peter J. Sarosi—immediately suggested adoption. He assured Graceann that he knew a wonderful couple and Nicole

could return to school without anyone knowing that she had been pregnant. Graceann later recalled that Dr. Sarosi "had made it all so easy." She was still trying to deal with the fact that her sixteen-year-old daughter was not a virgin, when faced with decisions

about her daughter and grandchild. There had been no time for this child to become real to her. Graceann had gone from shock to denial and stayed there.



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Graceann had a multitude of family concerns and feared the results of revealing secrets she and her daughter had kept. Graceann's husband had not known that their teenage daughter, Nicole, was pregnant and relinquished her son. Graceann was also concerned about Nicole's grandmother discovering that Nicole had been pregnant, given up her child for adoption, and that *this* was the little boy they were hearing about on the news.

I spoke with Graceann several times, trying to help her make the toddler called Mitchell real and accept the horror of her



*May The Joy We Found
Be Shared With You*



grandson's abuse. She wanted to believe that Mitchell would be okay if he were placed in another adoptive home without exposing Nicole's secret.

Each time we spoke I tried to gently prod her out of denial and fear and help her focus on the one person

who needed her the most: her grandson. I shared my belief that the only way she could guarantee her grandson's safety was if he was brought back to his family. Days later, Nicole was giving a press conference with her son, renamed Travis.

Shortly after Steinberg's 1989 conviction of first-degree manslaughter, I appeared with Graceann as a guest on the *Joan Rivers Show* to raise public awareness of the need to tighten adoption laws.

"He's wonderful," Graceann said of her grandson in *Newsday* in 2004 as Travis started college. Graceann Lamberta, now a city councilwoman in Germantown, New York said: "Many laws have been enacted, many young lives have been saved," as a result of the publicity surrounding Steinberg's murder trial.²

Michelle Launders, Lisa's mother, will not discuss the case. Her attorney reported that Launders' primary reason for bringing a civil suit against Steinberg "...was to rectify the injustice resulting from the failure to convict Steinberg for murder. I am confident that the civil judgment...will have the effect of holding him accountable for this crime for the rest of his life."

In October 1999, the city of New York paid Launders \$985,000 in settlement of the litigation she brought against several city agencies for failing to protect her daughter.

Joel Steinberg, who was sentenced to 8-1/3 to twenty-five years for first-degree manslaughter, never accepted responsibility for Lisa's death. In June 2004, when he was released from prison after serving sixteen years, *The New York Daily News* called Steinberg a "monster." Robert Gangi, executive director of the Correctional Association of New York, an inmate advocacy group, said: "He is a truly hated figure, and he is going to run into significant obstacles."

Obstetrician-gynecologist Peter Sarosi, who report-

edly “had a close personal relationship and extensive prior financial dealings” with Steinberg, and allegedly knew of Steinberg’s drug use, pleaded guilty to violating state adoption laws. He faced a maximum sentence of one year in jail. He was sentenced, however, to three years’ probation, 100 hours of community service, and a \$1,000 fine. He has also had his medical license revoked.³

While it is illegal to practice medicine without a license, as of this writing nothing has been done to stop doctors from arranging adoptions for clients or friends of theirs who are eager to adopt. Neither has anything been done to prevent anyone from adopting a child privately and not filing to finalize the adoption as Steinberg did.

Families First?

Michigan has a program called Families First. The intent is to help families remain together and when they cannot, to place children with relatives before putting them into foster homes.

Richard Wexler, executive director of the National Coalition for Child Protection Reform in Alexandria, Virginia, says the system is seriously flawed. Wexler says instead of helping families, Michigan “tear(s) children from loving mothers just because they’re poor.”⁴

Wexler’s comments came as the result of the death of a seven-year-old named Ricky whose mother’s only “crime,” according to Wexler, was being poor and requesting temporary help from the Department of Human Services in Michigan because she was homeless and unemployed. If Michigan had an effective Families First policy, Wexler points out, it would have cost taxpayers less to have provided Ricky’s mother transitional housing than placing Ricky and his siblings in foster care. Instead, a judge terminated Ricky’s mother’s parental

rights because she was unemployed and homeless, and the foster parents adopted her children.

Wexler is by no means the only professional in the field critical of adoption placements made to ameliorate familial poverty. “Abuse and neglect are the only reasons that children should be entering child protective services. Other reasons require alternate solutions,” says Joe Kroll, North American Council on Adoptable Children. “The government’s interests are served by placing the child and making sure that the family stays together” thus “[t]he government should provide services and financial support to the kin or foster family.”⁵

Ricky’s adoptive mother, Lisa Holland, was sentenced to life in prison without possibility of parole for first-degree murder. Tim Holland, who was sentenced to 30 to 60 years for his role, testified that his wife had abused the boy for years, restraining him with ropes in the basement. He said the boy was listless and unable to walk in the last week of his life—not eating, drinking, walking or talking and smelling like urine. Lisa Holland then hit Ricky on the head with a hammer and didn’t seek help while he slowly died.⁶

The state of Michigan paid Tim and Lisa Holland approximately \$26,000 a year foster and/or adoption subsidies, in addition to tax credits. And although financial support for Ricky ended when he went missing in July 2005, the Hollands were allowed to adopt another of his siblings and began drawing nearly \$8,000 a year for him. Payments range from about \$5,400 to nearly \$11,000 per year for children younger than thirteen, depending on whether the child has special needs.

These funds come from the federal government and are paid to states to promote the adoption of children in foster care. Child welfare advocates are likewise concerned that such incentives can put children in harm’s way by attracting families who are seeking a source of income rather than those who have a sincere interest in

caring for children. Child welfare experts concerned that the rush for permanency might cause other options to be overlooked, and even cause abuse to be pursued less diligently in such placements. “It wasn’t the lack of warnings in the Holland case; it was the unwillingness to heed the warnings.”⁷

The same funds used to support foster care could be used to help preserve families and eliminate child removal. “Of all the types of care,” says Joe Kroll, North American Council on Adoptable Children, “residential treatment centers, group homes, therapeutic foster homes, foster care, kinship care—welfare (TANF)⁸ payments for kinship care is the cheapest. We pay caregivers more the further they are from the child’s family. What does this say about social policy?”⁹

Many states are confronting these issues and seeking solutions. In Kentucky numerous social workers complained about policies that had them terminating parents’ rights and moving children too quickly from foster care to adoption. In April 2006, Kentucky’s Inspector General began investigating complaints from social workers that the “push” for adoption resulted in “[m]anagement staff us[ing] children and especially infants as bartering items”....and that “[t]here is not a lot of difference in the system than the black-market selling of children.”¹⁰

The investigation was the result of a January 2006 report by the Louisville-based National Institute on Children, Youth and Families Inc. and the Kentucky Youth Advocates entitled “The Other Kentucky Lottery.” The report was based on two hundred and twenty-five complaints received on an anonymous hotline set up because many in the child protection system were afraid they would be violating confidentiality laws by making their concerns public. Social workers claimed that supervisors forced them to tear families apart to increase the number of adoptions of foster children so that the state could get the \$4,000 bonus for each child adopted

out (more for children with special needs). Critics of the adoption system say the incentive money motivates the state to shift children into adoptive homes too hastily.

The number of children moved from state foster care to adoption in Kentucky rose from three hundred and eighty-four in 1999 to nine hundred and two in 2005, after the state was threatened with \$1.7 million in fines if the situation didn't improve. That resulted in \$1 million in bonus money paid to the state in 2004 under a federal program designed to encourage states to move more children into adoptive families. “[T]he one way a child welfare agency gets good press is to get those adoption numbers up. Federal bounties for every adoption above the previous year's total create another incentive for slipshod placements,” says Wexler.

The goal of the law should be to get children out of foster care, said Richard P. Barth, a child welfare researcher and professor at the University of North Carolina, Chapel Hill, but “not to keep kids from going home to their parents.”¹¹ **No incentives or funds are available from the federal or state budgets, in Michigan or elsewhere, specifically to help families in need stay together.**

Michigan, despite their Families First program, removes children from their families and places them in foster care at a rate nearly fifteen percent above the national average. In Michigan children are removed from their families more than 2.5 times the rate of such occurrences in nearby Illinois.

Children’s Rights Inc. is likewise concerned about prematurely terminating parental rights. Marcia Robinson Lowry, executive director, testifying before the Subcommittee on Human Resources of the House Committee on Ways and Means, said: “...Congress should realize that far too many states...when they do, for example, raise their adoption numbers, are doing so by including many clearly inadequate families ...along

with the genuinely committed, loving families who want to make a home for these children, just to ‘succeed’ by boosting their numbers.”¹²

Wexler, commenting in the *Palm Beach Post* about the rush for removals, stated: “The federal government offers a perverse incentive to states when they think that a family is having problems: Take children away and we’ll pick up a large share of the tab. And the money is unlimited; the federal government helps pay for every eligible child thrown into foster care, no matter how many are taken. But if a state wants to use safe, proven alternatives to foster care, the state often must pay almost all of the bill itself.”

Wexler continues: “Removals of children from their homes [in Florida] doubled in 1999... they’ve stayed at that obscene level ever since. But instead of making children safer, deaths of children previously known to DCF actually increased. Because state caseworkers were inundated with children who didn’t need to be in foster care, they had less time to find, and rescue, children in real danger.”¹³

Rather than perpetuate a revolving-door foster care policy, Arizona’s Child Protective Services launched a mandatory training program for foster parents so they can learn how to interact with their foster child’s parents called “Shared Parenting.” It can be as simple as a note placed in the diaper bag that goes with a baby on a supervised visit with his or her parents, periodic phone calls, or meeting children’s parents for lunch, sometimes in the foster home. The amount of contact is decided by the foster parents.

Children in foster care are moved often and abruptly, suffering multiple abandonments. Mary Anne Cohen suggests:¹⁴ “[A]ny transition, whether from foster care back to biological kin or to a new adoptive home [needs to be] done gradually, with ties to the foster family retained as much as possible. Nothing is more confusing

to a child than having people disappear from his life, never to be spoken of again. When foster parents adopt [a child they have fostered] it would also be best for them to have an open adoption and maintain contact with interested birth family members, for the sake of the child.” Yet only five states mandate that children with siblings have a right to maintain a relationship with them after being adopted that cannot be interfered with by adoptive parents.

Children who are placed in care after having established a relationship with parents whose rights are terminated, are often allowed to maintain visitation, albeit supervised. However, the best interest of children to maintain such contact comes into question when foster parents become adoptive or even pre-adoptive parents. Many states then permit such visitation to be at the discretion of the adoptive or pre-adoptive parents who often claim that the visits are “disruptive.” This can be done in opposition to appeals filed by the children.¹⁵

Cohen continues: “What is hypocritical is those who cry about a child being taken ‘from the only parents he has known’ in a contested adoption, but are silent about the same and worse being done to foster children, over and over again.”

Foster care presents many challenges for more than half a million children, and those charged with their care. Separating children from their families, even temporarily, is traumatic for children and cost-ineffective. In many states each child in foster care is being handled by as many as fifteen to twenty workers involved with one family.

Massachusetts also has a pilot project in two communities called “Team Fresh Start” in which foster mothers will mentor mothers—most often with substance abuse problems or teenage mothers who have no support system—in hopes of giving them the skills needed to care for their babies on their own. Mothers are carefully screened to make certain they are committed to

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addressing the troubles in their lives, such as addiction problems, officials said. The foster parents—someone who is always at home—undergoes eight weeks of training in childcare and mentoring before taking over care of the infant. Once that happens, the mission is not just to care for the baby but to illustrate, and model, for the birth mother what good care looks like.

“The visitation time is more extensive and during the visit, the foster parent shares parenting skills with the birth parent,” said Trudy Medeiros, Fresh Start supervisor for the DSS in Brockton. Initial evidence is that babies spend a shorter time in Fresh Start foster care than in traditional foster care. “Twenty-one percent of the babies are more likely to return to the birth parent in six months with Fresh Start, due to the birthparent’s contact with the child and their participation in the baby’s care,” according to Elaine Goldrick, adoption and foster care recruitment supervisor for the state Department of Social Services.¹⁶

In-home care, however, goes a step further and allows children to remain in their home with one social worker handling the whole case. Because it requires fewer caseworkers, it results in tremendous savings and better outcomes. The social worker visits daily and serves as the eligibility worker, arranging services to support the family, and the family goes into therapy together. Counseling for parents while children are in foster homes may work temporarily, but often families tend to relapse into their old dysfunctional patterns when reunited, thus, families who have their children removed and returned may lose them again.

Keeping families together, with services provided to them as a unit, achieves superior results. With in-home services, as few as ten percent of families have their children removed again. This also breaks a cycle: fewer foster children later having *their* children removed. An added bonus is manageable caseloads for social workers,

and because of the better outcomes, far fewer social workers burn out.

Illinois, which reduced its foster-care population from more than fifty thousand in 1997 to fewer than eighteen thousand by using in-home care, now moves children into foster care at one of the lowest rates in the country while improving child safety as determined by independent court-appointed monitors.¹⁷ When families receive the support they need to remain together, fewer children need foster care placements, which are known to be high-risk. Illinois child welfare system has become a national model.

Federal waivers of funds are cost-effective and offer more flexibility. Money that once went to foster care can go instead to childcare, allowing mothers to work and preventing families from being needlessly torn apart. It also can provide funds for substance rehabilitation.

Rhode Island, which had the country's second highest percentage of children in foster care, in part because of children's exposure to parental drug abuse, has found success with Family Treatment Drug Court, an intensive program aimed at getting parents off drugs so they can raise their children. University of Florida researchers found that even infants born with cocaine in their systems do better when left with their mothers than they do in foster care, and often seeing her baby is a great incentive for a mother's recovery from addiction.

Each year approximately twenty thousand of the 542,000 children in foster care nationwide "age out" and are discharged to live on their own. Five percent of these, or approximately eleven hundred young adults, are discharged to fend for themselves in New York City alone. Nationally, only half earn a high school education, two percent a BA. Eighty-four percent become a parent within twelve to eighteen months of being discharged from foster care. Approximately twenty-five percent are homeless. In Wisconsin, thirty-four percent of foster youth had been homeless or lived in four or

more places twelve to eighteen months after exiting the foster care system. Three in ten of the nation's homeless adults report foster care history according to CWLA. Youth aging out of foster care earn less than the poverty level. They earn significantly less than youth in any comparable group both prior to and after their eighteenth birthday. Yet, there are programs such as Kidsave's "Summer of Miracles" which bring Columbian children to the U.S.—older kids (teens) who are about to age out of foster care and be left to survive on their own in Columbia—for a chance to be adopted in the U.S.¹⁸

What's the Rush?

The rush to adopt is not limited to children in foster care. Elizabeth Samuels cites "two principles and widely accepted goals of domestic infant adoption, as (1) preventing the unnecessary separation of family members by ensuring that birthparents make informed and deliberate decisions and (2) protecting the finality of adoptive placements. Ideally, the goals are complementary and can be balanced. There is, however, a danger of the second goal eclipsing the first."¹⁹

Because those who are adopting have greater stability, finances, and are the paying "client" of the adoption provider, they have the upper hand. The danger of "eclipsing" is real, creating an equally real need to level the playing field.

Madelyn Freundlich, child welfare policy analyst, raises concerns regarding the ethics involved in decision-making when the "paying customers" are a prospective adoptive parent "who is likely to be the primary, if not exclusive 'client' because he or she is paying the fee for the services."

In studying adoption revocation proceedings, Samuels cites the causes of mothers withdrawing their consent to adoption as:

- signing the relinquishment within hours or days of the birth and regretting it almost immediately
- failing to resolve conflict with the maternal grandmother, baby's father, or other family members who were either opposed to, or had no knowledge of, the adoption
- lack of option counseling
- not being fully aware of the finality of an irrevocable consent
- a promise of openness that is not fulfilled

The most important way to ensure that “birthparents make informed and deliberate decisions” is to include their families in the process whenever possible, advises the Child Welfare League of America. This means not isolating women. Yet, only eighteen states require counseling, and those that do lack specifics, such as that the counseling be provided by “a neutral, unbiased [party] who has no vested interest in the outcomes of her decision” as recommended by Patricia Roles, MSW. Roles has written about the grief and loss of surrendering a child and has written a guide for people who counsel mothers who have surrendered children to adoption.²⁰ Adoption practitioner and researcher John Triseliotis concludes that “the birth parents need to have their own separate social worker. This can help to preserve objectivity, impartiality, and continued support where needed.”²¹ Yet this seldom, if ever, happens.

A mother placing her child for adoption rarely if ever has her own legal counsel, even though the American Bar Association’s Standing Committee on Ethics and professional responsibility concluded in 1987 that a lawyer may not ethically represent both parties. Dual representation, in which one lawyer represents both parties, is permitted in Kansas and California, and

prohibited in Kentucky, Maine, Michigan, Minnesota, New York, and Wisconsin.

Babb states: “[A]doption, more than any other human service, is rife with conflict of interest. Adoption agency social workers and attorneys routinely represent both birth and adoptive families [who are] party to the same adoption. Agencies whose very existence is based on fees paid for consummated adoptions claim to offer unbiased ‘crisis pregnancy’ counseling to expectant mothers.”²²

A New York case, in which the same law firm petitioned a Family Court judge to terminate the parents’ rights to a child had also handled the adoption by the child’s grandmother resulted in Governor Pataki signing a bill that would require an impartial law guardian to be assigned to the child involved in an adoption.²³ Adoptions in all states need such protective legislation.

Diligence in enforcing protections against coercion is essential. Timeframes for mothers to consent to adoption, however, vary with states from no restrictions, to hours and days after birth, with a few states allowing relinquishments to be signed prior to birth. States also vary on the timeframe for mother to revoke their consent, but the trend has been for states to cut the time shorter and shorter, in direct opposition to the experts that warn that rushing leads to more contested adoptions, which are more costly financially and emotionally for all parties in the long run.

In April 2006, Virginia Governor Tim Kaine signed legislation shortening the time parents have to change their minds about whether to give their child up for adoption from fifteen to ten days. After the child is ten days old, parents cannot revoke consent at all. In half of the U.S. states irrevocable consent can be obtained less than four days after birth. In another twenty-five percent of states the time period is less than seven days to a maximum of two weeks.

Samuels notes: “Many of these state laws do not ensure that best practices will be followed in all infant adoptions.... When a state places its legal imprimatur on the unmaking of one family and the making of another, the state should at least ensure to the greatest extent possible that all the individuals involved have followed or have been afforded ‘best practices.’ These are the practices that ethics and humanity demand.... In a number of other countries—including European countries and Australian states—consent may not be given or does not become final for a period of approximately six weeks.” Six weeks is the minimum required under the European Convention on the Adoption of Children, ratified by eighteen nations. In Victoria, Australia, the time period before a mother can consent to adoption is just fifteen days after birth. However, there is a six-week to two-month period in which she can revoke her decision.

The most liberal U.S. state in this regard is Vermont, which allows thirty-six hours after the birth before a consent may be taken, and gives mothers a twenty-one-day revocation period after they give consent.

The rush to terminate a mother’s rights is unethical and risky since an estimated fifty to eighty percent of expectant mothers who consider adoption while pregnant change their minds after seeing their baby.²⁴ Rushing mothers to sign papers before they give birth, or within hours or days of delivery, often causes regrets that lead to contested adoptions. It, therefore, behooves all who practice adoption to be more patient.

In reviewing attempts by mothers to revoke consent to adoption, Samuels notes that most states rule that a “change of mind is not sufficient to invalidate a relinquishment.” The majority of states, even with cause to invalidate the relinquishment, will require the mother to prove fitness, which almost never happens because that “fitness” is a contest between the mother and a married, prosperous couple who have custody and possession of the child. In 2001 a mother’s signed relinquishment was

found in Texas to be “sufficient evidence on which the trial court can base a finding that termination is in the best interest of the child.”²⁵

Jim Gritter writes in *Lifegivers: Framing the Birth-parent Experience in Open Adoption*: “How curious that one moment these critics admire [a mother’s] contemplation of adoption and consider it a sign of maturity, and the next they consider it a cause for concern. The proposed act that one day was regarded as a ‘loving choice’ is the next referred to as ‘unloading responsibility.’”²⁶ Mothers who simply weighed the best options for the permanent care of their child, are required to prove fitness compared to strangers competing for their child. Courts also found that “failure to understand all the legal ramifications” of a consent—though most surrendering mothers have no attorneys or have attorneys who are paid for by the adopting parents—was “not sufficient” to void it.

“In a sense, the social and legal systems have failed in any case in which an infant’s mother asks a court to overturn her consent,” states Samuels. She then asks: “If the first purpose of adoption is to provide a home for a child, rather than a child for adults who wish to adopt, and if the mother is not unfit and wishes to raise her child, how are we to understand such a contest?” Should it even be a contest? And how fair a contest when the playing fields are so uneven based on finances and other measures of “stability” and “advantages”?

Samuels concludes: “[I]f hasty consents are not permitted, adoption service providers and prospective adoptive parents have a powerful incentive to follow best practices from the outset. These practices facilitate deliberate decision-making and make adoption more of a cooperative process than a proprietary tussle. In other words, prohibiting hasty consents promotes best practices among those who might be most tempted to disregard them—whether for philosophical, religious,

emotional, or financial reasons—in order to meet the compelling desires of prospective adoptive parents.”²⁷

Samuels suggests four to seven days after birth before a consent can be taken, in which time most mothers should be released from the hospital and free of the strongest medications. She suggests that this be followed by an unqualified revocation period of approximately three weeks, making the total still shorter than in Australia and Europe.

Because those seeking to adopt infants far outnumber newborns being surrendered, there is no need for concern that increasing the time between the birth of an infant and adoption will discourage anyone. The best interest of the child must always be the litmus test of adoption practice. No research suggests that a few days to a few weeks in foster care damages newborns or their ability to bond.

John Bowlby, the most respected authority on the subject, found that “[a]ttachment behavior” usually begins to appear in infants between six and nine months of age.²⁸ He found that infants accepted strangers as mother substitutes without a noticeable change in levels of responsiveness and showed little or no protest and fretting up to twenty-six weeks of age.

Even those who press for very quick irrevocable consents “have not demonstrated either short-term or long-term harm from a period of a few days or weeks between a child’s birth and placement in an adoptive home,” says Samuels.²⁹

Safe Havens?

“Safe Haven” legislation began after a New Jersey teen gave birth and left her baby in a bathroom during a senior prom in 1997. The death of the newborn and several similar cases in other states prompted legislation which,

as of this writing, exists in forty-seven states, purporting to “save” abandoned babies.

There is little evidence that it has done so. Historically, there has always been infanticide and abandoned babies have always been left at firehouses, on church steps, and in hospitals. These situations often occur when mothers are overwhelmed, suffering from severe postpartum depression, or were unaware they were pregnant or were in deep denial and/or hiding it. Experts on neonaticide say mothers who kill their newborns are usually young, unmarried, emotionally isolated and often still living with their parents. Homeless and drug-addicted mothers as well as women fearing castigation from their communities commit neonaticide, too. Their denial remains even after their babies are born, making the baby seem not real. They give birth alone and secretly, usually over a toilet, and kill their babies moments after birth, said Neil S. Kaye, a forensic psychiatrist and assistant professor at Jefferson Medical College in Philadelphia.³⁰ Panicked, alone and often in great pain, few mothers have the wherewithal in the crucial moments after birth to consider safely abandoning their babies, according to Michelle Oberman, a professor at Santa Clara University’s School of Law.³¹

British law recognizes that mothers sometimes go into shock after the unexpected birth of a baby. In contrast, most U.S. states provide two options: mothers are either charged with abandonment, or offered a “get-out-of-jail-free” card by utilizing “Safe Havens.”

“Women who commit neonaticide are psychotic, suffering from postpartum psychosis, in extreme denial or have extreme pressure on them from parents or boyfriends,” according to Pertman. “The women who would have put their kids in a Dumpster are still doing it” despite Safe Haven legislation.³²

The reverse is also true. “It isn’t clear whether every baby that has been turned in [to a Safe Haven] would’ve been killed,” said Carol Sanger, a family law professor

at Columbia University's law school. Instead, women who leave their babies at hospitals or firehouses might just as well have given them up for adoption or placed them with family members, she said.

This point is illustrated in the following description that appeared in *Time Magazine*:

"The baby now named Tessa Leavitt was born in a motel bathtub on the night of June 18, 2005. Her mother cleaned her, breastfed her, and cut the umbilical cord herself. The next day, the young Hispanic woman swaddled the infant in a white towel and took her to Fire Station 15 in Whittier, Calif., where she rang the doorbell and told the firefighters, 'I want to give up my baby.' When the paramedics arrived 30 minutes later, she put the child on their gurney and left. 'It was eerie,' recalls firefighter Kevin Cull. 'The ambulance went off in one direction, and she just crossed the street and walked off in the other direction.'"³³

Perhaps Tess's mother might have offered to give her baby a way of obtaining medical information had she simply been asked if she chose to. Perhaps she might have opted to place her child through an adoption agency and even have an open adoption if she received any information that such an option existed for her. Perhaps, all she needed was someone to talk to her and ask her why she was choosing to do this and if she needed any help. Instead she was left to walk away.

When people are found in the process of jumping off a bridge, they are not simply allowed to take their lives in a moment of extreme stress or depression. When they are talked down, they are not left to simply walk away. They are taken to a hospital for help. So-called safe havens are not providing a safe, morally acceptable solution for mothers, who in a state of—perhaps temporary—desperation bring their babies there or elsewhere. Many experts agree with Pertman's assessment that: "These laws are persuading women who wouldn't have

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abandoned their babies in any form to do so” and the statistics support his claim.

Since 2001, when California enacted its safe haven law, more than one hundred and fifty newborns there have been surrendered safely, but at least one hundred and sixty were illegally abandoned. In the five years before 2001, when North Carolina legalized anonymous abandonment of infants up to a week old, there were ten known cases of babies who were illegally abandoned and died. From 2001 to 2004, nine infants in NC were illegally abandoned and died, while five or six were given up under the safe haven law. Illinois, which extended its safe haven surrender deadline from three days to seven, twenty-seven official legal abandonments since 2001, but forty-four babies were simply abandoned, twenty of whom died.³⁴

Marcia E. Herman-Giddens, University of North Carolina’s School of Public Health, has researched infant abandonment and concluded that social ills such as poverty, abuse, and incest are often behind newborn homicides. Herman-Giddens said, “I’m in no way opposed to [Safe Havens], but it’s very naive to think it will solve the problem.”³⁵

Among disadvantages cited by critics of Safe Havens are:

- the abandoned child has no original birth records or way to trace his medical history at any time in his life.
- there is no way to ensure that the mother is the party abandoning the baby.
- the mother and father are denied opportunities of option counseling.
- mothers and fathers are denied the ability to reconsider the decision, even in states with revocation time periods.

Robinson, states, “If abandonment of children is considered to be a problem, then legalising this behaviour is certainly no ‘solution’ to that problem. Domestic abuse is a problem in many societies, but I have yet to hear anyone suggest that the ‘solution’ would be to legalise domestic abuse. In fact, apprehending those responsible, whether in cases of child abandonment or domestic abuse, can give them the opportunity to access appropriate support services to help them to address the issues which led to their socially unacceptable behaviour in the first instance.

“There is also the danger that introducing...this procedure allows legislators to claim that they are addressing the problem of children being abandoned. In fact, not only have they avoided addressing the issues of social injustice which have led to such abandonment in the first place, but they have also created additional problems for the parents and children involved in this legal form of desertion.”³⁶

Jane Nast, former president of the American Adoption Congress, said: “The tradeoff is that the baby has no identity. The baby has no medical history. In theory, it sounds like a wonderful thing to do, but in fact it is a dangerous bill if the babies are left recordless.”³⁷

Some suggest that Safe Havens haven’t worked well and infant deaths continue due to lack of knowledge that they exist as an alternative. But supporters and critics of the laws agree that the best way to reduce neonaticides and baby abandonments is by tackling the problem long before vulnerable women give birth, or even become pregnant. Some schools are beginning to add legal abandonment processes to their health class curriculum. Researchers who have examined infant homicide and abandonment, however, disagree on whether any amount of public education would reach the mothers who are likely to commit infanticide.

A far more humane approach would be a haven that is truly safe for both mother and child. Mothers should be allowed to leave children at such locations to be placed in temporary custody while efforts are made to offer her—and other family members—time and counseling to gather resources and think out the decision carefully.

Tugs of War

Contested adoptions receive a great deal of media coverage because they happen infrequently. Attempts to revoke a surrender and/or prevent an adoption from taking place only reach the courts when fraud, duress, or undue influence in securing the consent to adopt has been established. One of the most well-known such cases is that of Baby Jessica.

Cara Schmidt, mother of the child known as Jessica, originally misidentified the father of her child, and when the actual father became aware of his paternity, he asserted his parental rights. As with most contested adoptions, the litigation of the illegal adoption dragged on for two and a half years.

With the assistance of “media-savvy advisers,”³⁸ adoptive parents Jan and Roberta DeBoer won the contest for the hearts and minds of the American public, who almost universally perceived the DeBoers as “more responsible, better educated, and altogether more suited for parenthood than [Jessica’s] birthparents.”

The media repeatedly accused the “biological” father of “disrupting the adoption” in an attempt to take Jessica from “the only parents she’d ever known.” Dan Schmidt said a decade after the case settled, “the media, the papers, they make one person good and one person bad.”

In 1993, when the law sided with Jessica’s parents, Cara and Dan Schmidt, they were allowed to bring their daughter home, amidst a media frenzy with television

cameras to record them retrieving their screaming child from the DeBoer's home.

In 1994, Roberta "Robby" DeBoer published *Losing Jessica*. She and Jan divorced in 1999. The child at the center of the battle was renamed Anna Schmidt, and when last visited by a reporter, she was an average twelve-year-old.

In 1995 a similar scenario culminated before television audiences as Baby Richard was likewise reclaimed by his father and mother.

"Baby Richard" was born in March 1991 and adopted soon after by Jay and Kim Warburton of Illinois. The child's father, Otakar Kirchner, asserted his rights within the legal time limit, as was the case with Dan Schmidt.

The tug-of-war went through the court system, which initially allowed the adoption to proceed. The Warburtons fought to maintain custody of their adopted child and Kirchner kept appealing. In 1994, when the child was three, the Illinois Supreme Court declared a wrongful adoption. From June 1994 through March 1995, the Warburtons refused all attempts by the Kirchners to negotiate the transition of the child back to his parents' custody. Thus, another televised drama of a screaming child being torn from "the only parents he ever knew."

Karen Moriarty is a therapist and author of *Baby Richard: A Four-Year-Old Comes Home*. She reported in 2003 that the child, renamed Danny, was a straight-A student and has adjusted well to life after the custody battle.

Decades before Baby Jessica and Baby Richard, there was the headline-making case of Baby Lenore. In this 1971 case, it was Olga Scarpetta—the child's mother, not the father—who revoked consent to adopt

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her child within the legal time limit. A publicized custody battle with adopters, the DeMartinos, ensued.

The New York Court of Appeals ruling in favor of Scarpetta stated that: “In no case...may a contest between a parent and non-parent resolve itself into a simple factual issue as to which affords the better surroundings, or as to which party is better equipped to raise the child.”

In direct opposition to the court of public opinion, the appeals court found that the mother’s change of mind “is not an evil thing” and “is to be accorded great sympathy, and in a proper case, encouragement and favorable action.” The DeMartinos defied the court ruling, however, and left the state with the child they had named Lenore. The couple fled with the child to Florida, where a court found in their favor. The United States Supreme Court declined to review the case.

Each of these cases were sensationalized and evoked strong public sentiment which led to states shortening the time for mothers to revoke their consent to adopt to protect the sanctity of the adoptive family and the creation of PFR. If a child is taken illegally in a kidnapping, is there any concern on the part of the public or the courts about the bond the child has formed with the kidnapper? Yet parents whose children are held hostage in adoptions that the courts have deemed illegal, are demonized, and support is given to strangers over parents, even when the prospective adopters violate court orders.

Support for adoptive parents in contested adoptions is so strong that it led to the formation of the DeBoer Foundation which pressured state legislators to close “loopholes” that allow adoptions to be reversed. Their argument is that making adoptions irrevocable is in the “best interest of the child.” Public resentment toward the birth families in each of these cases seemed to resemble the “deal is a deal” arguments put forth during the contested surrogacy case of Mary Beth Whitehead and

Baby M. There also seem to be remnants of the old adage “possession is nine-tenths of the law” in regard to property and ownership rights.

A model exists, however, to resolve such disputes in the best interest of the child(ren). Family courts in most states have long favored joint custody and liberal visitation in divorce as being in the best interest of children. Visitation in such cases is only denied upon proof of unfitness, such as neglect or abuse.

Sometimes the contest is between extended family and adopters. In Michigan, as of this writing, Chadd and Tamera Smith are fighting to keep two little girls they adopted after their father died and their mother went to prison. Relatives of the children are seeking to have the adoption overturned and take custody.

A county court found the adoption of the two girls, now ages four and five, to have been “improper” and awarded custody to Donna and Jonathan Cromwell, family members who sought to adopt the girls. In April 2005, a federal court judge said the ruling to remove the girls from their adoptive home “violated the... constitutional rights” of their adoptive parents. In November 2005, however, a county circuit judge decided it was in the best interest of the children to keep them with the Cromwells.³⁹

Mothers who surrendered and “changed their mind” or “reneged on the deal” have long been demonized. Now women are put in the same category if they decide to parent their children prior to any adoption taking place. There is now public outcry for the broken hearts not just of adopters who had children taken from them, but of those who paid and didn’t get a baby.

Family vs. Foster

Not only have adoptive parents fought to maintain possession of a child wanted by his family, now even foster parents are feeling entitled to do the same.

From 2002 to 2006 a five-hundred-mile tug-of-war for a little boy named Christian drew increasing national attention as his foster parents battled extended family members for the right to adopt.

In February 2002, three-month-old Christian was placed in foster care with Denise and Ivar Baklid in Florida. Later that month Christian's maternal cousin Tiffany Delk, and her husband, Jeff, of Tennessee contacted Florida Department of Children and Family Services, wanting to adopt Christian. The foster parents give a different timeline, but DCFS supports this account, and recommended custody be given to extended family members.

In May and June 2002, the parental rights of Christian's mother and father were terminated while the boy was in his Florida foster home. In October DCFS filed a motion to have Christian moved to his family in Tennessee, but a circuit court judge in Florida denied the motion.

As had happened decades before with baby Lenore, Florida allowed the foster family's petition to adopt to proceed, despite the challenge by family members who were supported in their petition by DCFS. In June 2003, another circuit court judge ordered Christian moved back to Tennessee with his family. Christian came home at sixteen months of age.

In Florida, however, support was building for his former foster parents who continued to battle for the

child who had been in their care for sixteen months. In June 2004, a year after Christian had been back in Tennessee, an appeals court in Florida overrode the previous court ruling. Through the remainder of 2004 and into 2005, there were court decisions and appeals, gag orders and complaints of non-compliance, and garage sales to raise money for legal fees. The former foster family continued to assert that Christian had bonded with them during his sixteen months. News reports questioned blood versus bond.

In March 2006, Christian's family was ordered to return their child to the Florida foster parents. Family visits were ordered but the Florida Supreme Court decided to proceed with the foster parents' petition to adopt without allowing Christian's family members, *with whom he had now lived two-and-a-half years*, to be present at the court proceedings.⁴⁰

In August 2006, when Christian was four years old, the foster family ended their battle. In September he was legally adopted by his relatives.

In the wake of the headlines, legislators in Florida called for the state to move to find family members of children in a more timely manner to avoid drawn-out cases such as this. Deborah Circelli, who followed the story for the *Daytona Beach-News Journal*, reports: "Partly because of this case, the Florida Legislature passed a law in May giving judges more authority. It also limited DCF's power to remove a child from a foster family or guardian seeking adoption if the child has been in the home for six months or more."⁴¹ Both sides, of course, claimed throughout that their position was in the "best interest of the child." From the beginning, however, the Sunshine State appeared to take the position that they had jurisdiction because they had possession of the child, and were as determined not to let go as the foster parents were.

Child-Centered Resolutions

Instead of fighting over a child, parents are advised by Gary Direnfeld, MSW, RSW, to “concentrate on their relationship with their kids....The true prize is a 100 percent relationship with one’s children. This is achieved,” according to Direnfeld, “not by fighting tooth and nail for one’s perceived rights, as the right to fight is not necessarily what is right for the child.”⁴²

Erik L. Smith fought to overturn the adoption of his son, who was born in Texas and relinquished for adoption by the child’s mother, but not by Smith. Smith continued his quest to retain paternal rights after the baby’s placement with an adoptive family. However, because his son was a year-and-a-half old when the termination hearing commenced, Smith agreed to allow the adoptive parents to retain custody, with Smith maintaining liberal visitation. He also volunteered to pay child support to the couple raising his child. The natural mother’s parental rights remained terminated.

Comparing his son having two dads to any child with a father and stepfather, Smith says:

The ultimate truth is this: The child will experience some uncertainty, confusion, and embarrassment. But where the parties act maturely, its effect will be temporary and, ultimately, harmless. In fact, after the confusion clears, having two legal dads can be quite positive.

Divorces, involuntary custody agreements, and single parenthood are commonplace. Those relationships, and the effect on the children involved in them, are as positive or negative, as stable or unstable, as the people involved in them choose to make it. Although few want to hear it, the same is true for adoptive and conventional families.⁴³

Smith concludes:

I do not believe, in any sense, that my son would have been better off had my parental rights been terminated. Nor do I believe my son would necessarily have been better off had I removed him from his non-biological parents. It would have served no practical purpose for one party to go away bitter, disappointed, and economically devastated while the child went away without the benefits of having a legal relationship with that other side. My son now has two legal dads. He also has double the number of paternal grandparents, relatives, inheritance possibilities, college funds, and emotional support opportunities than most other children have.

The adoptive parents and I have had some rocky moments. But my son does not seem to be significantly embarrassed about anything. To the still stubborn, I ask: Is the pain and confusion children like my son experience initially in childhood greater or less than the pain and confusion adult adoptees often feel upon knowing they were taken from a biological parent who did not consent to their adoption?

I do not argue that such open situations be the optimum choice in contested adoptions generally. I only argue that a non-biological couple's predictable insecurity, and the child's predictable uncertainty, confusion or embarrassment, are not, in themselves, valid reasons for rejecting the option of an agreed legal custody arrangement. I suspect those rationales reflect more society's wish to avoid its own uncertainty, confusion, and embarrassment.⁴⁴

Chapter X: **Adopting Alternatives**



The prophet who fails to present a bearable alternative and yet preaches doom is part of the trap that he postulates.

Margaret Mead



Australia provides a model based on the best interest of children. Since the enactment of the Children's Protection Act of 1993, the government in South Australia has put resources into family preservation and into creating genuinely child-centered alternatives for children at risk.

In addition:

- Private adoptions are illegal in Australia.
- There are no commercial adoption agencies and no payments of any kind connected to adoptions.
- Expectant mothers are encouraged and supported to raise their children and can receive a federal government Parenting Payment, regardless of their marital status.
- If the father, in some Australian states, is named on the birth certificate or if a man is recognized by the court as being the father of a child, then his consent is necessary before that child can be adopted.
- In some Australian states, children who are removed from their families under child protection legislation can be cared for under guardianship or permanent care orders. Unlike adoption, these are not based on deceit and fabrication and do not involve a perma-

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- nent legal separation of a child from his or her family.
- Consent to adoption cannot be given until the child is at least fourteen days old.
- In South Australia, counseling after the birth is compulsory and must be completed at least three days prior to consent being given. The mother of the child must also be given information in writing regarding the consequences of the adoption, prior to any taking of consent. After the consent has been signed, there is a period of twenty-five days during which the consent may be revoked. This period can be extended by up to fourteen days, but it cannot be shortened.
- There is never any contact between expectant mothers and prospective adopters.
- In South Australia, the names of both the parents and the adopters can appear on the same document.

Using this model, the following changes are necessary in order to rectify all of the exploitive, coercive, and dangerous practices that currently permeate American adoption, and create a safe and ethical system to provide care for children in need:

- No child should be considered for change of guardianship without good cause, and without assurance that his mother and father have had access to option counseling.
- Subsidies and financial assistance paid to mothers, fathers, and grandparents who need financial support to maintain the integrity of their families available, equal to, and offered as an option to foster care payment and subsidized payments.
- In the case of a voluntary relinquishment, best practices must be followed that provide unbiased, objective option counseling, and separate legal counsel.

- “Safe Havens” made safe for mothers and babies or abolished. Funds used by states to advertise the ease with which someone can abandon a baby used instead to help indigent mothers and children.
- A decision to surrender can be made only after a baby is born, not before. No agreement to transfer custody should be entered into until a *minimum* of four weeks after the birth of the child.
- Parents allowed six to nine weeks to reconsider and retract their decision without consequence.
- Fathers accorded the same custodial opportunities as mothers. Putative Father Registries need to be either eliminated or heavily advertised and used in conjunction with other ways men can establish their desire and commitment to parent responsibly.
- Transporting expectant mothers across state lines for the purpose of adoption of her child is outlawed.
- Prospective adopters paying either directly or indirectly for expectant mothers’ care, housing, or other needs, even as gifts, outlawed.
- “Matching” and all pre-birth contact of expectant mothers and prospective adopters stopped, including attendance at the birth of a child. Adoptive parents are not part of the process until a surrender and consent to adopt are completed and the revocation period has expired.
- Licensing of agencies that handle the transference of child custody to non-related persons, with regular follow-up checks by the licensing agency which can revoke licenses for non-compliance of regulations, unless handled by a government agency.
- Certification of adoption practitioners, including but not limited to attorneys, social workers, doctors, counselors, and agency personnel based on adherence to the minimum standards set by the CWLA best management practices.
- Outlawing of unlicensed and untrained adoption “facilitators” with penalties for human trafficking.

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- Home studies professionally completed by a neutral party, conforming to a single national standard, not a perfunctory investigation after the fact. Approval must be dependent upon a federal criminal background report and a search of registries of people who have abused or neglected a child. The results of these checks and searches obtained and shared with the surrendering parent(s) prior to placement and final consent being signed.
- Mandatory one-, six-, and twelve-month post-placement follow-up home studies on all adoption placements by a professional neutral party, conforming as well to a national standard.
- Openness *standard* and legally enforceable in all states. Until all states make contact agreements enforceable, all parties involved in a custody transfer in which such an agreement is unenforceable must be notified of this fact in writing and sign a waiver that they understand the agreements made are not enforceable. Where enforceable, agreements must contain language explaining the legal limits of such enforcement, i.e., that the placement will not be overturned if violated. Such agreements to be presented to and agreed upon by all parties before finalizing the transfer of custody and within a time that parties can decide against such a placement.
- Each party in the adoption provided separate counsel to review all documents prior to signing in order to protect their often conflicting interests. Those who cannot afford private counsel provided pro-bono legal assistance by the state funded by a tax on adoption fees.
- Incorrect reporting of a birth, including changing, amending, or falsifying in any way the date, place or names of parents of birth on any birth record—or denial of one's access to their own birth records—punishable by law.

- Any change in a child's name *added to* the original birth record and fully available in the same way as one's birth record is.
- Copies of all paperwork pertaining to the transfer of custody made available to the birth and new/receiving family, and legally available to the party to whom it applies upon request.
- Until all custody transfers are enacted in ways that maintain openness in all states, notification needs to be made to parents in the event the child dies before a transfer of custody has been finalized as well as notification if an adoption is not finalized, is terminated or dissolved, with the parents having first right of refusal to be considered in favor of allowing a non-related adoption or foster care.
- All adoption agencies with a web site on the Internet are engaging in international adoption and require regulation as such. Custody transfer of children occurring across states needs oversight. There is a need to coordinate local laws, interstate, and international adoptions.

Disputed custody cases to be resolved *promptly* with liberal visitation until the matter is settled (and afterward) allowing the child to establish a bond with all the parties so that the result is an easier adjustment, and also to prevent either party the advantage of "bonding" in the final determination.

Social Policy

Deeply held convictions form social constructs that shape not just personal decisions, but social policy. Public policy is often influenced by beliefs that stigmatize some people and extol the virtues of others. The societal view and political power of each group determines the political agenda and influences the process that eventually determines the policy design.¹ The U.S.

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favors pro-family policies, but the definition of who gets to be a family and who doesn't is fluid and hotly debated.

Winston Churchill said, “Where does the family start? It starts with a young man falling in love with a girl—no superior alternative has yet been found.” Of course romantic love is far from always a necessity, but we have found ways to legally eliminate men and women who create a family, naturally, while finding ways to “create” families in laboratories and court-rooms.

Adoption policies are created and supported by a common belief in adoption as a goal in family and child welfare. Hillary Clinton mused about her desire to adopt, someday, stating that she and Mother Teresa “differ on some issues but agree on the need to promote adoption.”²

“People assume that adoption is a benevolent, philanthropic response to the needs of orphans, but it’s not always,” says Maureen Flatley. “In some ways, it’s just another giant industry in which people see a way to get rich.”³ Adoption, which helps our states and nation by taking children who cannot be reunited with their families, *is* benevolent and should be supported while being clearly distinguished from adoption which is not.

Cultural and policy changes have resulted in fewer unintended pregnancies and increased acceptance of single parenthood over the past decades, which in turn has caused a “supply” and “demand” imbalance in regards to *domestically born infants* who are relinquished for adoption. The Gladney (adoption) Center in Fort Worth, Texas, has a “marketing coordinator” who in 1998 said that American domestic adoption is “in a period of crisis” because less than two percent of unmarried pregnant women are placing their babies for adoption. In the warped world of adoption, which focuses on the demand for infants, too few babies being

subjected to losing their connection to their family is viewed as a crisis.

A decrease in the number of infants whose parents are unable to support and care for them is cause for celebration, not concern. Would a decrease in disease be cause for celebration, or cause to bemoan the decreased income possibilities for physicians and pharmaceutical companies who specialized in treating the disorder? Just as such medical professionals would have the option to retrain in another specialty or profession, so too can those considering adoption readjust their expectations and desires.

More could be done to help single mothers with daycare and other provisions. Our federal and state governments, however, promote adoption with incentives such as subsidies and tax credits. **This broad-brush promotion of adoption does not differentiate between the adoption of children in state care who cannot be returned to their families, and the quest for infants domestically or internationally which does not assist this population in need or reduce state obligations to them.**

Samuels found that “federal tax benefits for adopters generally provide greater benefits to families involved in the more expensive healthy newborn and international adoptions, although the benefits are promoted as a means to increase adoptions of children out of foster care.”⁴

The Evan B. Donaldson Adoption Institute likewise reports, “Public policy is also an area of concern. The federal government, for example, offers financial incentives in the form of tax credits to families who privately adopt infants (and who are often affluent), yet does not offer the same support to those families who adopt children in foster care (and who usually have the greatest need for such support). Is it ethical that intermediaries and those least in need benefit the most from these tax credits?”⁵

Those who adopt non-related infants are primarily white, childless women with fertility impairments, and those with higher levels of income and education, according to the 1995 National Survey of Family Growth. Those in this privileged category have far greater resources and connections available to them and thus are more able to make their agenda seen and heard.

There are, thus, in addition to tax benefits and subsidies, various employer-sponsored financial assistance programs for adoption such as paid time off, and sometimes reimbursement for costs. A 2006 survey of one thousand companies by the Dave Thomas Foundation for Adoption found that forty-four percent of respondents offered paid adoption leave, up from thirty-eight percent in 2000. And eighty-three percent of those surveyed offered financial assistance for adoptions, up from seventy percent in 2000. A similar study in 2005 by WorldatWork, a group of human resources and benefits professionals based in Scottsdale, Arizona, found that thirty-nine percent of responding companies offered some form of adoption benefits, up three percent from the previous year. The Merrill Lynch Primary Caregiver Leave program offers thirteen weeks of fully paid time off for all new parents, biological or adoptive, male or female. It also offers adoptive parents \$3,000 to \$5,000 in financial aid.

Many adoptive parents are professionals, well into their careers—employees that companies fight to hire and keep. Debra Ness, president of the National Partnership for Women & Families, a Washington-based advocacy organization, said that increased lobbying for adoption benefits is part of a broader push to expand the Family and Medical Leave Act, enacted in 1993.⁶

Some airlines, such as Northwest/KLM, offer “significant fare discounts for international adoptions.” Their program called “Special Delivery” is designed specifically for “families adopting children from any of

our over 100 international destinations throughout Asia, Africa, Europe, India, and the Middle East” with the goal of making it “easier to bring your son or daughter home.”⁷

In 1987 a major book publisher rejected *The Dark Side of Adoption*, saying: “... the public will not buy ... a negative point of view about adoption. Those who adopt do so out of necessity, not choice, and though they suspect abuses in the system, they are inclined to overlook the problems because they have no alternative. Seeing the subject realistically might be too painful and unacceptable.” The publisher’s words are unfortunately as true today as they were when they were written in the 1980s.

It is, however, the “necessity” of adoption which needs to undergo examination. Is there a necessity to find infants to fill a demand, or is the necessity to find homes for children who need them. It is the distinction between the two which needs to be clarified in public policy formation. Our social policies encourage the transfer of infants from poorer parents to those who are “better off” financially and have more “advantages” to offer. These social engineering policies are justified on the basis of “best interest of the child” thus placing a higher value on financial means than any other criterion. Yet they are to the intent of child welfare that the only reason for family disruption be to protect a child from abuse or neglect.

Public policy based on what is best for business interests, however, allows for the creation of Putative Father Registries and Safe Havens for the purpose of increasing the supply of healthy white infants to meet the demand. Lobbyists for the multi-billion dollar industry promote such programs and any such legislation that denies the rights of parents and hastens adoptions, as being in the best interest of the child, when there is no reason for either of these practices to exist.

Cultural mores evolve slowly. As a nation, we once accepted the enslavement of Blacks for the economic advantage of whites. Slowly, in my own lifetime, we evolved from segregated schools, lunch counters, buses, water fountains, and restrooms to ameliorating the more subtle forms of prejudice and leveling the playing field in the job market. Each gain came slowly and not without opposition.

How we view and raise children has also changed over time. It was once accepted that children are the sole property of their fathers and inherit their names and property. As women's rights expanded first to include property ownership, and then to increased paid employment—not just in time of war—so too, gradually, did their right to parent alone after a divorce or without marriage come to be accepted. The Tender Years Doctrine, which favored mothers having custody of young children in divorce, is currently still common practice in most states, all things being equal. Motherhood and mothering became recognized, valued, and eventually desired and now even demanded as a right.

As these changes come to bear, attitudinal pendulums swing to extremes at different points in time. Not too long ago, it was perfectly acceptable to praise the act of mothering to the extent of saying that “any dog can give birth” and that the “real” mother is the one who stays up at night with a sick child. Phrases such as this are still said—though perhaps not aloud—in cases of disputed adoptions.

“It was actually a very short time ago, in human history, when men were able to put their own children to death, if they chose, without intervention by the state. The children, after all, belonged to the men; they were their property. Men could also buy other men and women (who happened to be black), and they considered themselves the owners of their wives. It took a war and much social upheaval to turn these presumptions of ownership on their heads. Only one remains: that babies

are the property of certain self-appointed or state-appointed adults. And women are joining in this presumption with righteous bravado.” Michael D. Trout.⁸

Evolution of humankind has still to progress to the realization that every child is a human being who comes into this world totally helpless and vulnerable and in need of care, protection, and a sense of belonging. Children are not property to be fought over, nor do they exist to fill the needs of others but to have their needs met. Every child born is society’s child and how they are treated is indication of a culture’s moral integrity and humanity.

Chapter XI: **Conclusion**



*You never change things
by fighting the existing reality.*

*To change something,
build a new model that makes
the existing model obsolete.*

R. Buckminster Fuller



Infant adoption is a multi-billion dollar unregulated industry serving the needs of infertile men and women, run by those with little or no training or education in the field of child welfare or social services. It has become a total distortion of the intended purpose of finding homes for orphaned children, and instead exploits mothers and commodifies their children. Samuels concludes: “Legal safeguards are unnecessary for infant adoptions conducted in a humane ethical manner; they are essential for those that may not be.”

The pretense that adoption recreates motherhood—certified by falsified birth certificates—is not working. Instead it harms all involved as it clashes with reality.

Adoption as it is currently practiced in the U.S. is not working. Adoption agencies are unregulated and anyone can claim to be an adoption intermediary or “professional” with no education, training or certification. Babb found adoption specialists and professionals

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are unsure about how to serve the best interest of children who need to be adopted, birth and adoptive parents, or adult adoptees. This failure to identify and set ethical standards in adoption has resulted in a lack of ethical decision-making and inadequate—and sometimes fraudulent—treatment of those seeking adoption-related services.

Adoption is not working for prospective adopters who lose money, hopes, and dreams when they pay fees for adoptions that do not materialize. It's not working for those who adopt with little or no preparedness for the challenges. Nor is it working for children who are placed with adopters who have unrealistic expectations, or are ill-prepared to deal with the unique life issues of a child who comes into their lives with an already existing family.

Adoption is not working for expectant mothers who are deceived, coerced, pressured, rushed, and their babies bought with expensive gifts and false promises. It's not working for fathers who want to raise their children and are deprived the opportunity. Adoption is not working for children who are deprived of fathers, grandparents, and other relatives willing and able to raise them, and even as adults are denied the same rights as non-adopted citizens in regard to their birth records.

International adoption does nothing to help poverty-stricken countries. It is certainly not working for children who are being trafficked and sold to pedophiles.

It most certainly is not working for the children who are abused, abandoned, and killed by their adopters. Nor is it working for the 134,000 children who cannot be reunited with their families and remain in foster care, often moving from home to home, many until they “age-out.”

Can It Be Fixed?

Annette Ruth Appell Associate Dean University of Nevada has been involved with protection and adoption reform since 1988. She concludes: “If adoption is to become truly child-centered, those participating in it as professionals, advocates, parents, lawmakers, and adjudicators must resist defining the process as the creation of one family and the destruction of another.”¹

Can adoption be “fixed” to meet a child-centered vision? Can families receive the resources they need to remain together? When all options have failed to keep a family intact, can children be provided permanent care in a manner that truly puts their needs first and maintains the integrity of their families with openness and honesty?

Can the process of providing care for children whose families cannot be free of profiteering with government oversight and regulation, or does it need to be abolished, or dismantled, and replaced with a system of *permanent* legal guardianship in which the children’s legal ties to their natural parents are not severed? Such concepts are neither new nor radical. Talmudic law did not recognize the Roman institution of adoption which substitutes a “legal fiction for a biological fact and, thus, create[s] the illusion of a natural relationship between foster parents and their adopted son.”² Michael Broyde uses the term quasi-adoption for such custodial relationships that obey Jewish law mandates that the identity of the natural parents (if known) are to be shared with an adopted child so that an adopted person cannot unknowingly marry a sibling.³

Contemporary American adoption experts such as Reuben Pannor and Annette Baran likewise recommend

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a version of adoption called “adoption simple.” Based on the Napoleonic code, adoption simple has been practiced in some Latin American countries and former French colonies. In the U.S., it was simply called “informal adoption.” Both of these provide families for orphans and children whose parents are unable to care for them without severing original family ties.

In 1990 Carole Anderson wrote: “Permanent guardianship would retain and acknowledge the child’s true kinship relationships while providing for permanent care. There would be no pretending that the guardians who care for and love the child are the ‘real parents.’ They are not parents.....we need a new view of family separation...we need something different than adoption.”⁴

For some, the word “guardianship”—albeit permanent—seems to imply a system that would reduce adopters to babysitters or foster care providers. There is, thus, concern that few would want to take on such responsibility. This is not true, however, because subsidized guardianship is a judicially created permanent relationship between a child and a caregiver. It makes an adult, often a family member, the legal guardian of a child and is intended to be permanent but, unlike adoption, it is based on truth not pretense and does not involve termination of the birth parent's rights. Guardianship carries with it all of the joys and sorrows of parenthood as well as the rights of responsibilities of parenthood: custody; responsibility for the protection, education, and care and control of the child; and decision-making responsibilities as the child's caretaker. Yet, under guardianship, the parents may retain certain rights, such as visitation, that they would not have under adoption.⁵

With as many as a hundred families seeking to adopt each infant being surrendered, those who want to be parents and cannot recognize permanent guardianship or

informal, simple adoption with honesty and openness is the best, healthiest way for their children to be raised, will have to be excluded. The only loss would be the revenue lost by those who profit from others' misfortunes and desperation to have a child at any price.

Honest and open custodial arrangements are not new. Guardianship or informal adoption thrives all over the world and did in this country until the 1940s. Many people are raised by aunts or grandparents, knowing exactly who their mother and father are, with no more or less problems than children who are raised by their parents. They receive love and care with no confusion and are spared a life of wondering who their "real" parents are. Mothers and fathers remain mothers and fathers with no additional prefixes to identify them. All legal rights of parents and their children, including inheritance, can be achieved with or without a change of surname.

An Illinois study compared the stability of 113 subsidized guardianship arrangements to 733 adoptions, all of whom were receiving services in Illinois. The researchers found no significant differences in the percentage of children in placement or the level of parental commitment to their children at the end of services. The study—"A Comparison of Subsidized Guardianship and Child Welfare Adoptive Families Served by the Illinois Adoption and Guardianship Preservation Program"—indicated guardians were more likely to talk about legal dissolution of the permanency arrangements (forty-four percent) than were adoptive parents (thirty percent); however, the findings overall suggest subsidized guardianship is a viable permanency arrangement.⁶

Open adoption is presented as a radical new experiment. It is not. It is the current practice of lies and sealed secrets in adoption which is a new and radical failed experiment contrary to the formation of healthy, functional family units. It is thus curious that some adoption re-

formers want to cling to the word “adoption,” and have difficulty accepting a system of child-centered, permanent guardianship that does not legally obliterate a person’s name or past familial relationships.

Some have compared adoption to marriage in that it creates a legal relationship between non-related people. Marriage forms a new family unit without severing ties to the original and accomplishes all of the same rights and privileges with or without a surname change. Remarriage creates blended step families and many children live in families with more than one surname for many reasons.

In divorce, no matter how young the child(ren), joint custody with liberal visitation is the *encouraged* norm because it is recognized to be in the best interest of the child to know and develop a relationship with both of his parents. This does not end when a parent remarries except if a parent chooses to stop visiting or is deemed unfit. In divorce, or after the death of a parent, children choose what they call their step-parents based on their age at the time the parent figure enters their lives, and their feelings toward that person, in the same way that children devise names for multiple grand- and step-grandparents.

A model exists in divorce in which most states recognize the right of a child of divorce to express his preference of residential custodial parent by the age of twelve. The court will allow the child to express any strongly held opinions or discuss in private possible abuse or neglect issues, with a recognition that children are often coerced, told lies about one of their parents, and/or coached to lie of in such situations.

Anyone can change their name except for a fraudulent purpose. Minors are required to have a court decision. This often occurs when parents get divorced and a child wants to join his/her mother in using her maiden name. It could also be done if a child old enough to make such a decision and his guardians agree to have

his name be the same as theirs.

Substitute care, no matter what it is called, can be a source of embarrassment for a child or adult who needs the same right we all enjoy of choosing whom he tells the details of his personal life. Scotland provides a model to balance truth with privacy within adoption. A short form birth certificate providing name and date of birth is issued and acknowledged for driver's license, passport, etc., and a long form available, upon request, which indicates the name of one's adopters. Access to original birth records are available at age sixteen.

Call it what you will: adoption, permanent guardianship, or custodial care. The word stewardship has taken on broader meaning in the environmental arena. Brent Waters uses the term "procreative stewardship" to describe a type of adoption that provides moral integrity.⁷ Call it any of these or entrustment or find a new term. Whatever name it goes by, a system is needed that provides nurturing, supportive, *permanent* family care for children without dissolution of the ties to their family of origin.

Call it abolishing the profiteering that currently exists or call it reconstructing adoption from the ground up. "Reconstruct" means: 1. To construct again; rebuild; 2. To assemble or build again mentally; re-create; 3. To cause to adopt a new attitude or outlook. This seems to best describe what is needed.

Adoption reformers have been trying to change adoption to make it more humane, more open and honest, and child-centered since the 1940s when adoption became secretive and sealed. With limited, grassroots financial and human resources, they are doing the best they can. Like a MASH unit, they are busy patching up the wounded with scarce resources and feel incapable of doing anything to stop the war from raging on and creating an endless supply of wounded, damaged, innocent people.

The battle started by Jean Paton in the 1940s to restore the rights of adult adoptees is still unresolved in forty-six states and thus needs to continue. Yet, limiting the focus to “open records” for *adults* ignores the ongoing falsification of birth certificates and keeps adoptees infantilized with the truth of their lives in the hands of their adoptive parents. As long as birth certificates continue to be falsified, some adults will never know that they are adopted and thus be unable to benefit from access to records.

Efforts to validate the harm done to mothers by adoption practices based on the social mores of the 1950s, 1960s, and 1970s, already documented, likewise keeps the focus on the rights of adults who were harmed in the past while thousands of mothers and children a year continue to be deprived of their rights and separated. There is a need to do more than provide an ambulance at the bottom of the cliff.

Reform means amend—a word already corrupted by adoption. It’s been tried for an entire generation with limited results. Times, social mores, and adoption practices have changed drastically since the days of trains and first orphan voyages. So too must the approach and the language of bringing dignity and moral fortitude to child welfare change with the times.

Reconstructing adoption entails a shift in thinking from the current accepted focus of adoption as a reproductive right and cure for infertility. Reconstructing adoption requires an end to current practices that are based on serving the needs of the paid client by providing a human commodity. It means ending all profiteering on misery. Championing child-centered adoption will not take attention away from the needs of adults who have been harmed by past adoption practices or those currently denied their records. Rather it will allow these injustices to be seen as symptoms of a larger pattern of corruption.

Can we fight “big business” and get the money out of adoption? Yes. The only thing preventing an organized campaign against the corruption in adoption is complacency and fear of trying something new and difficult. The tobacco industry was brought to its knees by a concerted effort on the part of ethical and concerned health care professions joined by individuals and a grassroots effort. The same combination of concern exists in adoption and child welfare.

Moneyed lobbyists for the tobacco industry were defeated. Lawsuits against tobacco companies have been successful. We have gone from a nation of smokers and an acceptance—and even romanticization—of smoking to a nation of non-smokers and very low tolerance for it. Those who still are addicted and continue to use tobacco continually lose ground as more public and privately owned indoor space in the U.S. becomes smoke-free. It *can* happen again. And it must. Our children are worth no less an effort.

Experts in the field such as Annette Appell, L. Anne Babb, Annette Baran, David Brozinsky, Elizabeth Barthelot, Madelyn Freundlich, Jim Gritter, Gloria Hochman, Adam Pertman, and John Triseliotis (to name just a few); legal experts like Elizabeth Samuels and Jeanette Mills; and those from other disciplines such as Maureen Flatley are outraged at the commercialization and corruption of current adoption practice. It will take a combined effort on the part of such notables, working with organizations such as the CWLA, The Evan B. Donaldson Institute, IAC (now WIO) and religious leaders—alongside activists and every person who was lied to, deceived, or scammed by adoption—to see to it that best practice standards are enforced and child placement is regulated.

The best interest of children must always be put before those of the adults involved. When our moral compass starts with child custody transfers being focused on the needs of children, not on encouraging

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family separations to meet a demand for infants to adopt, it is clear that child custody issues involving non-related transfers *must* be regulated and carried out by educated, trained, and certified professionals.

Rabbi Michael Lerner has suggested a *Spiritual Covenant with America*⁸ that challenges the "old bottom line." The first item on the covenant's agenda is to "create a society that promotes rather than undermines loving and caring relationships and families...challeng[ing] the materialism and selfishness (often rooted in the dynamics of the competitive marketplace) that undermine loving relationships and family life."

The covenant's proposed agenda includes increased accessibility of daycare and health care, and while never mentioning adoption or child custody per se, it could not be more applicable to the changes needed in this area of family life.

Can the proposals made in this book be accomplished? Of course they can; many have been enacted in Australia and elsewhere. The Health, Labor and Welfare Ministry of Japan issued guidelines in August 2006 to clamp down on unscrupulous agencies that violate the Child Welfare Law, which bans profiting from adoption. The guidelines detail a concrete list and definition of allowable "expenses" to be paid to adoption agencies to curb adoption practices that amount to human trafficking because of payments and prohibit agencies from receiving any money prior to the completion of the adoption process.⁹

Is the U.S. less civilized or less caring about the welfare of our children than these nations?

Implementing Goals

"For years, the argument against greater regulation of adoption by the federal government has been rooted

in the notion that adoption is a state law issue,” says Maureen Flatley. “While adoption is an important benevolent response to the needs of orphaned children around the world, it is also a big business that generates millions of dollars in revenue.... While the federal government regulates everything from coal mining to organ transplants, international adoption has remained beyond the reach of most federal enforcement or oversight.

“The State Department’s equivocation,” Flatley continues, “has ensured that consumers have more protections when they join a health club than they do when they make this profound and life altering decision.... By allowing each state, each agency—indeed, each family to pursue adoption differently the U.S. government has ensured consumers of adoption services have no coherent guidelines to protect their interests. This lack of consistency has only been amplified by the use of the Internet to market adoption services and the growing demand for children.”¹⁰

Current adoption reform groups and individuals can maintain their focus on support, lobbying on a state level to restore adoptee rights, inquiries into past offenses, or facilitating open adoptions, while *also* supporting federal regulations against profiteering and falsified birth records.

Below are six principles around which adoption experts and existing adoption reform organizations might coalesce efforts. They can be reworded in ways each group can agree upon and ratify, if they are in fact not already inherent in an organization’s current mission:

- Recognition that every child born has two parents, and should not be separated from them without good cause.
- An end to unregulated agencies and “facilitators.”
- An end to the exploitation of poor women and commodification of their children in order to maintain a supply of infants to meet the “demand.”

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- An end to the falsification of birth records.
- The restoration of rights of adopted citizens to full equality with those of non-adopted citizens in regard to their birth records.
- Openness and honesty in adoption and enforcement of contact agreements.

We can and must cultivate an alternative ethos of adoption practice. Hope lies in the reflection of Burton Z. Sokoloff's *Antecedents of American Adoption*, which concludes: "History shows adoption as a unique and ever-changing phenomenon."¹¹

Adoption has degenerated into a deceitful and corrupt failed social experiment that benefits only the bottom line. The profit motive and corruption in adoption cannot be mended; it must be ended.

APPENDIX: State Laws Regulating Adoption Facilitators ¹		
STATE		
STATE	Facilitators Prohibited	Applicable State Statute
Alabama	YES	26-10A-33, 26-10A-36
Alaska	YES	AS 47.35.015(e)
Arizona	YES	ARS 8-130(B)
Arkansas		
California	Permitted	
Colorado	YES	19-5-206(1)
Connecticut	YES	Sec.17a-149-150
Delaware	YES	Sec.928(b), 930, 931
Florida	Permitted	63.032(3) ²
Georgia	YES	19-8-24
Hawaii		
Idaho		
Illinois	YES	750 ILCS 50/21
Indiana	YES	IC 35-46-1-9 ³
Iowa	Permitted	600.9(b) ⁴
Kansas	Permitted	59-2121 ⁵
Kentucky	YES	199.590(3),(5)
Louisiana	YES	RS 14:286 ⁶
Maine	YES	9-306(a) ⁷

¹ Data collected in late 2003 by Jon Klaren, VP,
Concerned United Birthparents. State statutes are subject to change.
Consult your state's most current adoption statutes.

² Exempt from the prohibitions of 63.212.

³ Adoption facilitation is a class D felony.

⁴ Iowa is one of roughly a dozen states that have no rules, specifically limiting adoption advertising or the use of facilitators, according to the National Adoption Information Clearinghouse, part of the U.S. Department of Health and Human Services.

⁵ Included as "other professional services."

⁶ With criminal penalties.

⁷ Excludes fees to intermediary.

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Maryland	YES	5-327(a)
Massachusetts	YES	210-11A
Michigan	YES	710.54 ⁸
Minnesota	YES	245A.03(3), 259.21(9)
Mississippi	YES	SEC. 43-15-107(1)
Missouri	Permitted	⁹
Montana	YES	42-7-105(1), 52-8- 101(b) ¹⁰
Nebraska	YES	43-701.
Nevada	YES	NRS 127.290 ¹¹
New Hampshire	YES	170-E:27, 170-E:39, 170-E:45
New Jersey	YES	9:3-39.1(18)(d)
New Mexico		
New York	YES	Section 374(6)
North Carolina	YES	GS § 48-10-103
North Dakota	YES	14-15-09(j)
Ohio		
Oklahoma	YES	10-7505-3.2
Oregon		
Pennsylvania		
Rhode Island	YES	Section 42-72.1-4(c)
South Carolina	Permitted	Section 20-7-1650
South Dakota	YES	25-6-4.2
Tennessee	YES	36-1-108, 36-1-109
Texas	YES	162.025
Utah		

⁸ Michigan uses the term “Adoption facilitator” to mean a child placement agency or an adoption attorney. Sec 722.952 Sec 2(d), but expressly prohibits any person from being paid for services in conjunction with adoption sec 710.54 with criminal penalties.

⁹ Appears to permit them, but has laws against child trafficking.

¹⁰ Punishable by fines and injunction.

¹¹ Also prohibits attorneys from being paid to find parties to adoption NRS 127.285.

Appendix

Vermont		
Virginia	YES	63.2-1218 ¹²
Washington		
West Virginia	YES	48-22-803
Wisconsin	YES	948.24(1) ¹³
Wyoming		

¹² With criminal penalty

¹³ Class H felony

NOTES

Introduction

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³IAC, currently: World Initiative for Orphans (WIO) Prinsessegracht 3, 2514 AN The Hague, www.iachildren.com/

⁴Sue Zeidler, “Internet Transforms U.S. Adoption Process,” Reuters, May 21, 2004, as quoted in Samuels, 2005.

⁵Anne L. Babb, *Ethics in American Adoption*, Westport, CT: Bergen and Garvey, 1999, p. 181.

⁶Rabbi Michael Lerner’s Spiritual Covenant with America, based on *The Left Hand of God: Taking Back Our Country from the Religious Right*, NY: HarperCollins, 2005.

⁷Surrender: The termination of parental rights by the signing of a relinquishment or a Consent to Adopt. Surrender and relinquish are used interchangeably though some prefer the former because it more closely describes their experience.

Chapter I. Past and Present

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³ Allison Martin, “Adoption History - Interview with Barbara Melosh.” Originally appeared in *Adoptive Families*. www.comeunity.com/adoption/adopt/interview-adoptionhistory.html.

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⁷ Ann Fessler, *The Girls Who Went Away: The Hidden History of Women who Surrendered Children for Adoption in the Decades Before Roe v. Wade* (New York: Penguin Group, 2002).

⁸ Guttmacher Institute.

⁹ Adoptees Liberation Movement Association (ALMA), P.O. Box 727, Radio City Station, New York, NY 10101-0727.

¹⁰ I.S.R.R., P.O. Box 2312, Carson City, Nevada 89702-2312, (775) 882-7755, www.plumsite.com/isrr/.

¹² Current adoption disclosure laws and restrictions in all 50 states are available at www.bastards.org/activism/access.htm.

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800-822-2777, www.CUBirthparents.org

¹⁴ Merry Bloch Jones, *Birthmother* (Chicago: Chicago Review Press, 1993).

¹⁵ E. Deykin, Lee Campbell and P. Patti, "The Post Adoption Experience of Surrendering Parents." *American Journal of Orthopsychiatry*, 54 (1984), 271-280.

¹⁶ Origins, P.O. Box 556, Whippany, NJ 07981

¹⁷ Mirah (aka Marsha) Riben, *shedding light on...The Dark Side of Adoption* (1988), p. 32. Reprinted courtesy WNBC-TV. www.AdvocatePublications.com.

¹⁸ Personal email from Alyce Jenkins, September 2006.

¹⁹ American Adoption Congress, P.O. Box 42730, Washington, DC 20015,
www.americanadoptioncongress.org.

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Chapter XI: Conclusions

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